

Exhibit C

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF WISCONSIN

3 - - - - - x
4 BCI ACRYLIC, INC., :
5 Plaintiff, :
6 v. : Case No.
7 MILESTONE BATH : 23-CV-908-JPS
8 PRODUCTS, INC., d/b/a :
9 BELLASTONE BATH :
10 SYSTEMS and :
11 TIGHTSEAL, LLC, :
12 Defendants. :

13 - - - - - x
14
15 Deposition of MARK DOMANICO
16 Chicago, Illinois
17 Wednesday, November 29, 2023
18 10:14 a.m.

19
20
21
22
23 Job No.: 516588
24 Pages: 1 - 183
25 Reported By: Cynthia J. Conforti

Transcript of Mark Domanico
Conducted on November 29, 2023

2

1 Deposition of MARK DOMANICO, held at the
2 offices of:

3
4
5 K&L GATES, LLP
6 70 West Madison Street, Suite 3300
7 Chicago, Illinois 60602
8 312.372.1121
9
10
11
12

13 Pursuant to notice, before Cynthia J. Conforti,
14 Notary Public in and for the County of Cook.
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFF:

MARK REMUS, ESQUIRE
CROWELL & MORNING LLP
455 North Cityfront Plaza Drive
Suite 3600
Chicago, Illinois 60611
312.321.4200

ON BEHALF OF THE DEFENDANTS:

ERIK J. HALVERSON, ESQUIRE
REBEKAH HILL, ESQUIRE (Chicago office)
K&L GATES, LLP
4 Embarcadero Center
Suite 1200
San Francisco, California 94111
415.882.8008

ALSO PRESENT:

Jeffrey Whitley (telephonically)
Richard Figueroa, Videographer

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DOMANICO DEPOSITION EXHIBITS

NUMBER	DESCRIPTION	PAGE
Exhibit 1	U.S. Patent 10,144,243 BCI00000001 - BCI00000009	45
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1	P R O C E E D I N G S	
2	THE VIDEOGRAPHER: Here begins Media No. 1	09:23:42
3	in the videotaped deposition of Mark Domanico --	10:13:37
4	THE WITNESS: Good enough.	10:13:40
5	THE VIDEOGRAPHER: -- in the matter of BCI	10:13:41
6	Acrylic, Inc. vs. Milestone Bath Products, Inc.,	10:13:41
7	et al., d/b/a Bellastone Bath Systems and	10:13:48
8	TightSeal LLC, in the Court of the United States	10:13:52
9	District Court for the Eastern District of	10:13:55
10	Wisconsin, Case No. 23-CV-908-JPS.	10:13:56
11	Today's date is November 29, 2023. The	10:14:06
12	time on the video monitor is 10:14 a.m. The	10:14:10
13	videographer today is Richard Figueroa	10:14:18
14	representing Planet Depos.	10:14:20
15	This video deposition is taking place at	10:14:21
16	70 West Madison Street, Chicago, Illinois, 60602.	10:14:24
17	Would counsel please voice identify	10:14:29
18	themselves, and state whom they represent.	10:14:32
19	MR. HALVERSON: Erik Halverson on behalf	10:14:34
20	of Milestone Bath Products, Inc., and TightSeal,	10:14:37
21	LLC, and along with me today is Rebekah Hill, both	10:14:42
22	of us of K&L Gates, LLP, and on the phone today on	10:14:46
23	behalf of Milestone bath Products is Mr. Jeff	10:14:48
24	Whitley.	10:14:50
25	MR. REMUS: And Mark Remus on behalf of	10:14:50

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1	BCI Acrylic.	10:14:55
2	THE WITNESS: Is Jeff on now?	10:14:57
3	MR HALVERSON: He's on the telephone.	10:15:00
4	THE WITNESS: Hey, Jeff.	10:15:02
5	THE VIDEOGRAPHER: The court reporter	10:15:03
6	today is Cynthia Conforti representing Planet	10:15:05
7	Depos.	10:15:05
8	MR. WHITLEY: Good morning.	10:15:05
9	THE VIDEOGRAPHER: The witness will now be	10:15:07
10	sworn.	
11	(Witness sworn.)	
12	MARK DOMANICO,	
13	having been duly sworn, was examined and testified	
14	as follows:	
15	EXAMINATION	10:15:20
16	BY MR. HALVERSON:	10:15:20
17	Q Good morning, Mr. Domanico.	10:15:20
18	A Hey.	10:15:21
19	Q Can you state your full name for the	10:15:21
20	record.	10:15:24
21	A Mark Domanico.	10:15:24
22	Q And Mr. Domanico, are you currently	10:15:25
23	employed?	10:15:27
24	A No.	10:15:27
25	Q Have you ever been deposed before?	10:15:28

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1	A Yeah, once, long ago.	10:15:30
2	Q So we'll go over a couple of ground rules	10:15:33
3	or understandings, and then we'll dive on in, but	10:15:37
4	the first is, it's very important that we don't	10:15:40
5	talk over each other, so if you could wait for me	10:15:42
6	to finish asking my question before you answer,	10:15:45
7	and I will wait for you to finish answering before	10:15:47
8	asking my next question. And that also gives	10:15:50
9	Mr. Remus the opportunity to lodge an objection in	10:15:53
10	the event that he wants to.	10:15:56
11	Can we agree that we'll wait for the other	10:15:57
12	person to finish talking?	10:15:59
13	A We agree.	10:16:00
14	Q I will do my best to take a break about	10:16:01
15	once an hour. I don't think we're going to go all	10:16:04
16	that long. My guess is three or so hours of time.	10:16:07
17	It will go faster than you think. But if at any	10:16:11
18	point in time you need a break, go ahead and ask,	10:16:14
19	and I'm happy to take a break.	10:16:16
20	The only question that I have -- or the	10:16:18
21	only request that I have there is if there is a	10:16:20
22	question outstanding, I would prefer you to answer	10:16:23
23	that question before we go on a break; is that	10:16:25
24	fair?	10:16:27
25	A Fair.	10:16:27

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1	Q I will assume, as will the record, that	10:16:30
2	you understand whatever the question is if you	10:16:33
3	answer it. So if you don't understand the	10:16:36
4	question, please ask for clarification, because	10:16:38
5	the court reporter will just take down the words	10:16:41
6	that are said, and so if there's any uncertainty	10:16:44
7	in your mind about what those words mean or what	10:16:48
8	the intent is behind a question, it's better that	10:16:50
9	we make that understanding explicit on the record,	10:16:53
10	so that when we go back and look at the transcript	10:16:55
11	later, we're all on the same page. Is that fair?	10:16:57
12	A Fair.	10:17:02
13	Q And then you understand the oath that you	10:17:02
14	just took from the court reporter is the same oath	10:17:05
15	as you would take if you were in a courtroom?	10:17:08
16	A Yes.	10:17:11
17	Q All right. So let's dive in. You said	10:17:13
18	you were deposed once before?	10:17:15
19	A Yes.	10:17:17
20	Q What was that about?	10:17:17
21	A There were two people that worked	10:17:18
22	together, and one filed a sexual harassment suit	10:17:20
23	against the other, and they deposed everybody in	10:17:24
24	the whole building.	10:17:30
25	Q Were those individuals working at the same	10:17:31

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1	company that you were working at?	10:17:34
2	A No.	10:17:35
3	Q So no connection --	10:17:36
4	A One of them was. The other one wasn't.	10:17:36
5	Q Okay.	10:17:36
6	A They were not both.	10:17:38
7	Q And then I want to dive into a little bit	10:17:40
8	about your background.	10:17:50
9	A Okay.	10:17:53
10	Q Did you go to college?	10:17:53
11	A Yes.	10:17:54
12	Q Where did you go to college?	10:17:55
13	A DeVry.	10:17:56
14	Q And what did you -- did you graduate from	10:17:58
15	DeVry?	10:18:01
16	A No.	10:18:01
17	Q What did you study at DeVry?	10:18:01
18	A Electronics. And I got a great job offer,	10:18:04
19	phenomenal, actually, working for Xerox.	10:18:09
20	Q And when did you leave DeVry to start at	10:18:12
21	Xerox?	10:18:15
22	A '74.	10:18:15
23	Q 1974?	10:18:16
24	A Yes.	10:18:17
25	Q And how long were you at Xerox?	10:18:17

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1	A About two years.	10:18:21
2	Q And what were you doing there?	10:18:21
3	A Well, at first they hired me to repair	10:18:23
4	copiers, but I would write letters to the company	10:18:27
5	explaining why their machines were bad, and why	10:18:30
6	the Japanese machines were better, so they moved	10:18:33
7	me over from repairing copiers to taking apart	10:18:39
8	competitors' copiers and doing a write-up on the	10:18:43
9	differences in what ours were like and what theirs	10:18:49
10	were like. They -- I did a good job for them. I	10:18:52
11	actually explained to them how antiquated the	10:18:56
12	machines were.	10:19:00
13	Q And what type of Xerox machine were you	10:19:01
14	working on in the --	10:19:04
15	A All of them, first off. From -- the only	10:19:04
16	one I didn't work on was the King of the king, the	10:19:09
17	9500s, because by the time that one came out, they	10:19:11
18	had moved me over to taking apart the other ones.	10:19:16
19	Q And so you said you were there for about	10:19:18
20	two years?	10:19:20
21	A Uh-huh.	10:19:21
22	Q What happened after Xerox?	10:19:21
23	A I opened a series of my own businesses.	10:19:24
24	One of my cousins convinced me to go into	10:19:27
25	partnership with him, and we bought a bunch of	10:19:30

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1	transmission shops.	10:19:34
2	Q Auto transmissions?	10:19:34
3	A Auto transmissions.	10:19:37
4	Q What did you do with those auto	10:19:38
5	transmissions?	10:19:40
6	A Well, I was then the salesman, and what I	10:19:40
7	would do is I would go to visit all the car	10:19:44
8	dealers and say to the car dealers, We have the	10:19:46
9	technical expertise to fix any transmission.	10:19:49
10	We did, like, Pontiacs, and Buicks, and	10:19:51
11	Fords, and they'd send the car over to us, we'd	10:19:56
12	fix it and send it back. Plus we had our own	10:19:59
13	customers, and I also had a really great account	10:20:02
14	with the City of Chicago where I fixed fire trucks	10:20:05
15	and ambulances. It was a lot of fun because the	10:20:10
16	fire department demanded I test them out really	10:20:11
17	good. And I needed to make sure they were	10:20:12
18	technically exactly right. Somebody's life	10:20:17
19	depended on it so...	10:20:19
20	Q And so when you're testing the	10:20:20
21	transmission of a fire truck, what do you do?	10:20:22
22	A You drive it really fast with the lights	10:20:24
23	on, and you see how hard you can hit it and feel	10:20:27
24	if there's a shift that shifted correctly. You	10:20:27
25	wanted to make sure that it ran for a while.	10:20:30

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1	You take out the oil, make sure there was	10:20:32
2	no metal in it. You wanted to make sure that	10:20:34
3	everything was smooth, you button it all up, and	10:20:36
4	then they take it for a test drive with you in it.	10:20:40
5	If they approved of it, then that's it, it	10:20:42
6	was delivered.	10:20:45
7	Q And how long were you working on	10:20:45
8	transmissions after Xerox?	10:20:46
9	A I'd say three years.	10:20:48
10	Q And what happened after the transmission	10:20:51
11	project?	10:20:54
12	A I invented a system where I repaired	10:20:56
13	surfaces, and I called it Surface Renewal, and I	10:21:01
14	had hired a bunch of guys for my invention. And	10:21:06
15	we worked here in Chicago taking -- at that time	10:21:09
16	we would take apartment buildings and turn them	10:21:13
17	into condos until the city didn't let us anymore.	10:21:15
18	And we did a lot of work doing trips and things in	10:21:20
19	elevators. We repaired countertops in	10:21:23
20	restaurants, bars, apartments. I had 14 guys	10:21:26
21	working for me.	10:21:28
22	And then we took on another line of work,	10:21:29
23	which was the refinishing of bathtubs. We sprayed	10:21:34
24	bathtubs with an epoxy. My guarantee was "I	10:21:37
25	guarantee it won't last," because I didn't think	10:21:41

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1	it would, and I was pretty straight up and -- but	10:21:43
2	a lot of people did it anyhow. It was a good --	10:21:46
3	good income for a long time.	10:21:49
4	Q So before the bathtubs, just focusing on	10:21:50
5	the condo or --	10:21:54
6	A Yes.	10:21:54
7	Q -- apartment to condo --	10:21:56
8	A Yes.	10:21:56
9	Q -- resurfacing --	10:21:56
10	A Surface repair, yes.	10:21:56
11	Q What types of surfaces were you working	10:22:00
12	on?	10:22:02
13	A Generally fiberglass, marble, travertine,	10:22:02
14	anything that would chip and look ugly. Sometimes	10:22:06
15	people would do vandalism, and I'd be brought in	10:22:10
16	to repair it. Sometimes people would take a key	10:22:14
17	and screw up the inside of an elevator	10:22:17
18	intentionally, and a lot of the places here	10:22:20
19	downtown wanted it to look great. I had a lot of	10:22:22
20	big accounts that I worked for constantly and in	10:22:25
21	the suburbs too.	10:22:29
22	Q And said you invented a way of fixing	10:22:29
23	those surfaces?	10:22:32
24	A Yes.	10:22:33
25	Q What was that?	10:22:33

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1	A It's pretty -- well, it depended on what	10:22:34
2	the thing was.	10:22:37
3	If there's a little chip, I had a filler	10:22:38
4	that you could use, and that was quite easy, but	10:22:40
5	if it was a bigger, I might have to go all the way	10:22:43
6	down to spraying the whole surface, but there was	10:22:47
7	a suite of things that you can choose from to	10:22:49
8	repair whatever was broken.	10:22:52
9	And I took a cleaver, and I was going to	10:22:56
10	pound out some meat in my home, and I had a brand	10:23:00
11	new house with a counter as big as this, and	10:23:04
12	white. Unfortunately, I cleaved a chunk of the	10:23:06
13	counter off in my brand new home.	10:23:09
14	Obviously, the wife wasn't -- wasn't happy	10:23:12
15	with me, so I figured out a way to repair it. One	10:23:13
16	of my buddies came over who was a maintenance man	10:23:16
17	at Four Lakes Village in Lisle, and he said, You	10:23:19
18	got a new counter.	10:23:22
19	I said, No, I fixed it.	10:23:24
20	He said, You can't fix a counter.	10:23:24
21	I said, Yeah, you can, if you just think	10:23:24
22	about it.	10:23:26
23	So he said, How much you want to repair	10:23:26
24	them? And I told him. He said, Boy, Four Lakes	10:23:28
25	Village has 6, 700 apartments. We need every	10:23:32

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1	counter fixed.	10:23:35
2	I said, Be glad to do it for you. I just	10:23:36
3	charge, and that's how I started.	10:23:39
4	Q And so how did you fix the counter that	10:23:41
5	you hit with the meat tenderizer?	10:23:44
6	A Well, like a car, that particular one,	10:23:47
7	because a great chunk was taken out.	10:23:49
8	So I started with Bondo, and then I had a	10:23:52
9	series of chemicals that I mixed on-site true to	10:23:56
10	color of the surface that I was at.	10:24:02
11	I would spray it or brush it, depending on	10:24:04
12	the surface, and then I'd have to buff it to the	10:24:06
13	same finish as the rest of the counter. It was	10:24:09
14	very quick and very profitable.	10:24:12
15	Q And what were those chemicals? Were those	10:24:15
16	colors? Were those additives? What were they?	10:24:17
17	A Well, mostly plastics. You can mix, right	10:24:19
18	on -- right on-site, you could mix the plastics,	10:24:22
19	and you could mix them with different hardening	10:24:25
20	times, just like cement has different hardening	10:24:28
21	times. And sometimes I would have to put a heat	10:24:31
22	lamp on it to speed up, but I worked it all out,	10:24:34
23	and that's what I did for a while.	10:24:40
24	After -- I sold the business, eventually,	10:24:42
25	to my sister, who ran it for years after that.	10:24:45

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1	Q What was it called?	10:24:47
2	A Surface Renewal.	10:24:48
3	Q And then you also mentioned this epoxy	10:24:53
4	spray project on bathtubs.	10:24:56
5	A Well, that's where I went into, I was	10:24:59
6	surprised by how big the epoxy spray business	10:25:00
7	became, even though I really didn't like it. I	10:25:04
8	didn't like spraying chemicals, I didn't like	10:25:07
9	breathing that stuff, but it was quite a business	10:25:09
10	for a while. Matter of fact, they're still doing	10:25:11
11	it today, which I can't believe that they are.	10:25:15
12	Q And what type of equipment did you use for	10:25:18
13	that epoxy spray process?	10:25:22
14	A Very low-pressure spray gun. You don't	10:25:26
15	want mists in the air.	10:25:31
16	Like anything -- everything was in the	10:25:32
17	prep, knowing how to prep the different types of	10:25:35
18	tubs, and doing a good job, making sure that the	10:25:38
19	fumes didn't leave the room and that the person	10:25:40
20	doing the spraying had proper masking equipment.	10:25:43
21	Q Were those hand pump sprayers, or were	10:25:47
22	those --	10:25:50
23	A Oh, no, no. It's --	10:25:51
24	Q -- pressurized?	10:25:52
25	A Yeah.	10:25:54

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1 Q And when, roughly, at what point in time
2 did you get out of the epoxy-spraying business?

3 A As soon as I discovered acrylic bathtubs.

4 I had read in a -- in a report, there was
5 a company on the East Coast called Universal
6 Plastics in Chicopee, Massachusetts, and I went
7 down to see the guy who had invented the product,
8 and he was using polyvinyl chloride sheets, which
9 I didn't like, because if they catch fire they're
10 extremely toxic.

11 So I said to the guy, his name was Joe
12 Peters, long since retired and gone, but Joe
13 showed me how to do it. He didn't even charge me.
14 He said, I only do government housing, and I only
15 do it in the Massachusetts area, sometimes some of
16 the other New England, but mostly government.
17 That was a small part of his work. He did a lot
18 of fabrication for military. And that was a small
19 project that one of his guys did.

20 So they showed me how to do it, and I went
21 back to Chicago and I said, Great, I don't have to
22 spray fumes again. I don't have to risk my
23 people, so I built a company to manufacture
24 bathtub liners, which is a new tub over the old
25 tub.

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1	Q And so you mentioned PVC, poly --	10:27:18
2	A Vinyl chloride.	10:27:22
3	Q Vinyl chloride.	10:27:22
4	A That's what they used. I use acrylic.	10:27:25
5	Q What's the difference between PVC and	10:27:28
6	acrylic?	10:27:32
7	A Acrylic looks better. Acrylic's a little	10:27:33
8	more money. If acrylic is on fire -- if, like,	10:27:36
9	the building's on fire, I mean, obviously you have	10:27:37
10	got other problems, but it doesn't give off toxic	10:27:39
11	fumes. Because when I go into an apartment	10:27:42
12	building, anything over a certain -- I think it	10:27:45
13	was three stories, they wanted it to be fire	10:27:46
14	rated.	10:27:49
15	Q Do you know the chemical composition of	10:27:49
16	PVC?	10:27:51
17	A No.	10:27:53
18	Q Do you know the chemical composition of	10:27:53
19	acrylic?	10:27:55
20	A Yes.	10:27:58
21	Q What is it?	10:27:59
22	A I got to say the word?	10:27:59
23	Q Yes.	10:28:01
24	A I got to think about it.	10:28:01
25	THE WITNESS: Hey, Jeff, what's the -- how	10:28:04

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1	do you say "acrylic" in Latin?	10:28:05
2	MR. REMUS: Go ahead.	10:28:05
3	THE WITNESS: Okay. Acrylonitrile	10:28:14
4	butadiene styrene, blah, blah, blah, blah.	10:28:19
5	BY MR. HALVERSON:	10:28:22
6	Q And when did you --	10:28:22
7	A And that was just one of the layers.	10:28:23
8	There were several layers to the sheet,	10:28:24
9	which is an important factor here.	10:28:26
10	The top layer was clear acrylic. The	10:28:27
11	second layer was white, or whatever color I wanted	10:28:30
12	the bathtub to be, acrylic. Clear acrylic cleans	10:28:33
13	quite easily.	10:28:39
14	If you add pigment to it, it doesn't clean	10:28:40
15	as easily. To get the maximum strength I, and I	10:28:42
16	only, paid to have just a clear layer on top,	10:28:46
17	because I didn't ever want to go back to have to	10:28:48
18	do something.	10:28:50
19	The third layer was ABS, acrylo butadiene	10:28:51
20	nitrile styrene, and that product was because	10:28:56
21	of -- acrylic was brittle like glass, and only	10:28:59
22	used a thin layer, the ABS is pliable.	10:29:05
23	And then, eventually, we worked on a	10:29:10
24	fourth layer where they added talc, baby powder,	10:29:12
25	to more ABS on the very thin layer on the bottom,	10:29:20

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1	so that when we put the sheets into our	10:29:24
2	thermoformers, they slid easily, without sticking	10:29:28
3	to the hot mold.	10:29:31
4	Q And so --	10:29:34
5	A All of these things took some time to	10:29:34
6	research and do to get it better.	10:29:37
7	Q We'll get into that in just a second.	10:29:39
8	Before we do, I want to just put a sign	10:29:41
9	post on the timing of that trip out to	10:29:44
10	Massachusetts to visit Joe Peters. When did you	10:29:47
11	go out to Massachusetts to do that?	10:29:53
12	A No idea.	10:29:55
13	Q '80s, '90s?	10:29:55
14	A Probably about '85, '86, maybe '85, if I	10:29:58
15	had to guess. '84, could be. You know, I	10:30:03
16	really -- it's a long time ago.	10:30:08
17	Q All right. And then one other clarifying	10:30:14
18	question. You said the third layer was ABS?	10:30:17
19	A Yes.	10:30:20
20	Q What is ABS?	10:30:21
21	A I told you --	10:30:21
22	Q That's the --	10:30:22
23	A Acrylonitrile butadiene styrene. A very	10:30:25
24	common plastic.	10:30:28
25	Q I think -- and then one last clarifying	10:30:35

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21

1	question there.	10:30:38
2	You said you only paid to have just a	10:30:39
3	clear layer on top. Were you buying acrylic	10:30:41
4	sheets at that point?	10:30:45
5	A Yes, I could not make them. I did -- It	10:30:46
6	would cost millions to build a factory to make	10:30:47
7	sheets.	10:30:51
8	Q From whom were you buying acrylic sheets	10:30:51
9	when you first got started on this?	10:30:54
10	A When I first got started, Joe Peters sent	10:30:56
11	me a bunch of his PVC sheets. I didn't like it,	10:30:59
12	so I found a company, SparTek Industries.	10:31:03
13	As a matter of fact, I'm still friends	10:31:07
14	with the salesman who sold me the original sheets,	10:31:11
15	and I bought from SparTek for a while.	10:31:13
16	Eventually I bought from a company called	10:31:15
17	Liberty Plastics, and then SparTek bought them	10:31:18
18	out. I ended up buying from an Austrian company,	10:31:23
19	because they had the best -- they had really the	10:31:26
20	best material.	10:31:28
21	And they had a factory. Their	10:31:29
22	North American factory is just south of the	10:31:31
23	Mexican border, and I forgot the name. Cristero,	10:31:35
24	I believe, is the name of the town in Mexico. I	10:31:39
25	don't -- that's where I order from.	10:31:40

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1	Q Is that roughly Tijuana, El Paso?	10:31:42
2	A North of Mexico City.	10:31:42
3	Q Okay. Okay.	10:31:42
4	A Never been there. I have often been to	10:31:48
5	the one in Austria, because they invited me for	10:31:53
6	conferences a lot.	10:31:56
7	Q And so that is -- that bathtub refinishing	10:31:57
8	company that we were talking about spanned from	10:32:05
9	late -- mid to late '80s onward, was that Luxury	10:32:07
10	Bath Liners?	10:32:12
11	A It started out as Heartland Bath.	10:32:14
12	Q Okay.	10:32:18
13	A That was our original name. Our goal was	10:32:20
14	to take care of Chicago.	10:32:23
15	As people came through Chicago, and they'd	10:32:24
16	go to -- I'd go to conventions. Like at McCormick	10:32:27
17	Place, people would see my product and they'd go,	10:32:30
18	Man, I'm in LA, can I do this? Man, I'm in -- you	10:32:31
19	just name a city.	10:32:34
20	Before you know it, I had a bigger	10:32:36
21	wholesale business than Chicago, so we split the	10:32:38
22	company in two.	10:32:40
23	One of my partners took Heartland Bath and	10:32:41
24	made it Chicago. He retired ten years ago, and	10:32:45
25	his name was Bob Glassberg. And I ran Luxury.	10:32:47

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23

1	Q And how would you differentiate what	10:32:54
2	Heartland did versus what Luxury did?	10:32:57
3	A I manufactured, and he installed in homes	10:32:59
4	and apartments.	10:33:02
5	Q And did you sell to people beyond Bob?	10:33:04
6	A Oh, yeah, that's what I said. I took on	10:33:07
7	dealers all over the country.	10:33:09
8	Q And when did that split happen?	10:33:12
9	A Over time. It was because as we took on	10:33:14
10	dealers, we were spending more and more time doing	10:33:22
11	manufacturing, and I was doing less time out there	10:33:25
12	actually selling apartments and real estate	10:33:28
13	companies.	10:33:31
14	So what I had to do is, we said, you know,	10:33:31
15	This isn't efficient anymore. As we grew, we had	10:33:33
16	to split the company for more efficiency, and he	10:33:37
17	went to a different building, and he was just a	10:33:40
18	customer of mine.	10:33:42
19	Q And so when you say "manufacturing," what	10:33:44
20	did that entail when that split first happened?	10:33:47
21	A Well, first you got to build the	10:33:52
22	equipment. I could not afford, at that time, real	10:33:54
23	thermoformers, so we had to design our own.	10:34:00
24	Literally parts from the Ace Hardware.	10:34:04
25	And we hired a guy who told us it was	10:34:07

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24

1	impossible, so that gave us, you know, more	10:34:10
2	impetus to, Hey, we'll figure this out. Screw	10:34:12
3	him. And we did.	10:34:16
4	And you can still see the machines today.	10:34:17
5	You can look at them and see they're homemade.	10:34:20
6	Eventually, as we added more machines, we were	10:34:23
7	able to pay for professional ones, but the ones we	10:34:25
8	made 30-some years ago are still functional.	10:34:28
9	Q And what was the heating element in those	10:34:30
10	homemade thermoformers?	10:34:33
11	A Well, originally I used -- there was a	10:34:34
12	company right up the street that made quartz rod	10:34:36
13	heaters, and I hired a guy who used to work at a	10:34:39
14	company in Arizona that used the quartz rod	10:34:42
15	heaters, but it was too expensive.	10:34:46
16	So eventually I went to gas catalytic	10:34:48
17	heating. Gas catalytic actually takes gas and	10:34:53
18	doesn't burn it, but it turns it into UV light of	10:34:56
19	a certain frequency that was really a match for	10:34:58
20	getting into the acrylic and warming it.	10:35:01
21	And we had both top and bottom heats, and	10:35:05
22	I was able to, depending on the sheet we were	10:35:09
23	thermoforming, to adjust the heat top temperature,	10:35:12
24	bottom temperature.	10:35:15
25	So we made our own control systems, and we	10:35:16

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25

1	made our own heaters. And actually, I had my son	10:35:18
2	help me do it, too.	10:35:23
3	And there was a guy named Mark Smith. He	10:35:25
4	was actually the biggest guy who helped make it	10:35:27
5	originally. He -- he had a lot of technical	10:35:29
6	knowledge, and he was good with his hands, and	10:35:33
7	he -- we all did -- matter of fact, him and I just	10:35:39
8	made a small one at his company I don't -- four or	10:35:44
9	five months ago.	10:35:47
10	Q And how much does a commercially available	10:35:48
11	thermal heater for that type of manufacturing	10:35:50
12	process cost today?	10:35:55
13	A Today? A good one, like the ones we have	10:35:56
14	at BCI, probably 130, 140, 150.	10:36:00
15	Q And do you know what they would have cost	10:36:05
16	back in the '80s and '90s?	10:36:08
17	A Well, it was a different type. I didn't	10:36:10
18	have a rotary, I didn't have a professional.	10:36:13
19	We -- it was homemade. But it probably would have	10:36:14
20	been about 20 grand for a good one.	10:36:17
21	Q And was that 20 grand to make your own --	10:36:19
22	A No, no.	10:36:21
23	Q -- parts, or did you mean to buy one?	10:36:22
24	A To buy one. Cost about three, four grand	10:36:22
25	back then to make your own.	10:36:24

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1	And, more importantly, I -- instead of	10:36:27
2	making one for general, I made one specifically	10:36:29
3	for what I was doing. So it was a good deal for	10:36:33
4	us. And as being a tinkerer, I absolutely love	10:36:37
5	doing stuff like that.	10:36:42
6	Q And so you had mentioned that the acrylic	10:36:43
7	sheets you were using at that time had three	10:36:48
8	layers; is that right?	10:36:51
9	A When I started, it had -- the very first	10:36:51
10	sheet was one layer, then two, then three, then	10:36:54
11	four.	10:36:58
12	Q And what is the most number of layers that	10:36:58
13	you're familiar with?	10:37:00
14	A Four.	10:37:00
15	Q Four?	10:37:01
16	A And that's what we use today.	10:37:01
17	Q So for the three-layer --	10:37:03
18	A Yeah.	10:37:05
19	Q -- sheets, do all three layers melt at the	10:37:05
20	same temperature and rate?	10:37:09
21	A As far as you're concerned, yeah, because	10:37:14
22	the whole sheet sagged at once. When the sheet	10:37:17
23	got hot, it sags in the middle. When it reaches a	10:37:22
24	certain point, I had a laser, a UV light that	10:37:24
25	turned a lamp on and said, It has now reached a	10:37:29

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1	certain depth.	10:37:32
2	Then we would pull the drawer out of the	10:37:33
3	oven, with the sheet on it, and we would put it	10:37:35
4	over a mold. The molds were bathtubs. We	10:37:37
5	actually had 700 different bathtubs.	10:37:42
6	So when we went to somebody's home, I had	10:37:45
7	to come up with a system. At first Smitty worked	10:37:47
8	on it, and then I worked on it, and then I	10:37:52
9	invented a program that identified the bathtub,	10:37:55
10	and you put in all the parameters of measuring.	10:37:59
11	Smitty made some of the bathtub tools, I invented	10:38:02
12	one of the three bathtub tools, and we put those	10:38:05
13	measurements into the computer program that I	10:38:08
14	wrote, and it would tell you:	10:38:10
15	You have a Kohler model, you know, KH3 or	10:38:11
16	whatever. We had a bunch of them that we did not	10:38:14
17	know what they were. So we called them UKs,	10:38:16
18	unknowns.	10:38:19
19	But it didn't matter if I knew who	10:38:20
20	manufactured it, because as long as I had the	10:38:23
21	exact measurements, I would have the mold. If I	10:38:24
22	didn't have the exact mold, I would tell the	10:38:28
23	customer, You're in luck. I want your bathtub.	10:38:30
24	I'll rip it out, put in a brand new tub, fix your	10:38:33
25	walls and everything, but I need that tub for many	10:38:37

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1	other jobs that I would do all across the country.	10:38:39
2	Matter of fact, if you go to BCI right	10:38:42
3	now, it's a -- it's a wall of bathtubs, almost as	10:38:44
4	far as you can see. I think we got about 1700	10:38:50
5	there now.	10:38:52
6	Q And so the idea there was you warm up the	10:38:53
7	sheet of acrylic so it becomes soft and pliable?	10:38:55
8	A And you have to warm up the mold, too.	10:38:59
9	Q Okay.	10:39:01
10	A And eventually you have to chill the mold	10:39:02
11	after you make so many sheets. The sheet -- the	10:39:04
12	molds need to be warmed. Otherwise, when you pull	10:39:06
13	the sheet out, it would [indicating] freeze	10:39:09
14	immediately.	10:39:12
15	So you had to put it over a certain	10:39:13
16	temperature mold, but as you pulled the sheets	10:39:15
17	out, that mold would get too hot, and the sheet	10:39:18
18	wouldn't set quickly.	10:39:21
19	So we would buy aluminum molds, quite	10:39:23
20	expensive, and we would run chilled water through	10:39:26
21	it by a series of machines that chilled water and	10:39:29
22	recirculated the water.	10:39:32
23	Q Okay. And then you had mentioned that you	10:39:35
24	had invented a software program there to identify	10:39:37
25	the right bathtub --	10:39:39

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1	A I wouldn't call it invented, but I wrote a	10:39:41
2	software program.	10:39:47
3	Q How did that work?	10:39:48
4	A Well, in order to -- we needed to match	10:39:48
5	what the customer had, so that we could fit it	10:39:51
6	over like a glove. And we had a series of tools	10:39:54
7	and the sheet that would tell us all the	10:39:57
8	measurement we need.	10:39:59
9	Let's assume we have a tub in front of us.	10:40:00
10	How big is the bottom length? How big is the top	10:40:02
11	length? How big is the width? Then we have	10:40:06
12	radiuses in the corner. How big is the thing you	10:40:08
13	step over?	10:40:11
14	Some of them, if you can think of a	10:40:12
15	bathtub, come down a little and then come out a	10:40:14
16	little, and then come down a little, and they	10:40:16
17	step -- and some are straight down. Some are	10:40:19
18	actually bent-over form front. Matter of fact, I	10:40:21
19	have a patent on one of those.	10:40:25
20	Q And so --	10:40:28
21	A I forgot about that patent.	10:40:29
22	Q Is the -- was the software program a	10:40:31
23	look-up, a table look-up, or what did it -- what	10:40:34
24	did it do?	10:40:37
25	A Well, I had -- well, it would identify,	10:40:38

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1	and then it would look up through the thing and it	10:40:40
2	would say three things. There would be loose,	10:40:44
3	medium and tight.	10:40:46
4	And we always started saying with the	10:40:48
5	tight meaning exact tub, okay, it often did not,	10:40:52
6	because it was measured incorrectly, the guy was	10:40:58
7	in a hurry or he didn't write -- then I could say	10:41:02
8	medium tolerances, where I could adjust an eighth	10:41:05
9	of an inch off of every measurement, so what was	10:41:11
10	it between this plus or minus eighth of an inch.	10:41:14
11	And that almost always worked.	10:41:18
12	And then if it was really off, it would	10:41:19
13	say, I believe it's this, this or this. But we	10:41:22
14	were always able to tell, because the skirt	10:41:26
15	design, almost every -- the front of the tub that	10:41:29
16	you would kick if you wanted, you know, at one	10:41:30
17	point, would have a design.	10:41:32
18	So I would look at the original tub and	10:41:33
19	say, Oh, that's a Kohler, it's got this -- it's	10:41:37
20	two lines, or that's an American Standard, it has	10:41:39
21	three lines, or that's a Sears, it's got, like, a	10:41:43
22	chevron in it, or it's a Bootz, because of the way	10:41:45
23	they make an indent.	10:41:48
24	So I was able to look at the skirt to	10:41:49
25	prove that the program was right.	10:41:53

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1	Q	So you put in the measurements that --	10:41:54
2	A	Yes.	10:41:57
3	Q	-- the technician takes --	10:41:57
4	A	Uh-huh.	10:41:59
5	Q	-- in the software program?	10:41:59
6	A	Uh-huh.	10:42:00
7	Q	And if it's a perfect match, the software	10:42:01
8		says This is --	10:42:04
9	A	Yes.	10:42:04
10	Q	-- the Kohler brand blank?	10:42:04
11	A	Right.	10:42:07
12	Q	And then you could go back to the	10:42:07
13		manufacturing facility, pull down that --	10:42:09
14	A	Yes.	10:42:11
15	Q	-- Kohler brand and make a new mold --	10:42:11
16	A	Yes, we use that Kohler tub or whatever	10:42:13
17		tub it was as the mold, but in order to make it as	10:42:17
18		a mold, we had additional work we had to do it.	10:42:22
19		First thing we had to do was Bond- --	10:42:31
20		Bondo the bottom, so that we could run copper	10:42:33
21		cooling wires or hoses, like a refrigerator, all	10:42:37
22		around it, because when we needed to chill that	10:42:41
23		mold, when it became too hot and would not make	10:42:43
24		proper tubs, we had to prepare it by putting all	10:42:47
25		these things -- we also had to drill hundreds of	10:42:54

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1	holes, microscopic, in the bottom of the tub, so	10:42:58
2	that we could pull the vacuum to pull the tub	10:43:01
3	through it.	10:43:06
4	We also had different slip-resistant	10:43:07
5	bottoms that we could put in the mold and change	10:43:12
6	them out, depending. We had a sandpaper, we had a	10:43:15
7	diamond pattern, depending on what customer, what	10:43:19
8	mold. So we were able to make our own molds, and	10:43:22
9	identify our own molds, and that put us, you know,	10:43:25
10	in a good spot.	10:43:30
11	Q And so --	10:43:32
12	A And at that time I wasn't the only one	10:43:37
13	doing it. There was another guy who went to Joe	10:43:39
14	Peters, and he started a company in Arizona. His	10:43:42
15	name was Ollie Faulkner, but unfortunately he got	10:43:45
16	run over by a bus, and he's no longer with us. So	10:43:48
17	don't bike in a downtown area.	10:43:52
18	Q Noted.	10:43:54
19	Did you ever shift from tubs to showers?	10:43:59
20	A Sure, we do showers too.	10:44:01
21	Q When did the shower designs start?	10:44:03
22	A I don't know the date, but it wasn't long	10:44:09
23	after we started.	10:44:16
24	Q And what was the -- so a tub has curvature	10:44:17
25	to it --	10:44:23

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33

1	A Yes.	10:44:23
2	Q -- there's a three-dimensional --	10:44:23
3	A Yes.	10:44:23
4	Q -- a shower is just a wall?	10:44:23
5	A Oh, are you talking about a wall or a	10:44:26
6	shower base?	10:44:29
7	Q What's the difference?	10:44:30
8	A Well, one's a wall, and one's on the	10:44:31
9	floor.	10:44:35
10	Q What is -- so describe --	10:44:35
11	A Even been in a shower where you stand in a	10:44:36
12	pan and it's got a drain in the middle? Or... p.	10:44:38
13	A standard shower.	10:44:41
14	Q So mine has a tub, and there's a shower --	10:44:42
15	A No, no. This is --	10:44:44
16	Q -- on the wall.	10:44:46
17	A Is there a tub -- is there a shower only	10:44:46
18	in your room? Is that what we're talking about?	10:44:48
19	Q That's -- yeah, that's my current	10:44:52
20	question, and so --	10:44:54
21	A It's a shower only. And there are several	10:44:54
22	parts to a shower, but it's the same thing.	10:44:57
23	You're forming a piece of acrylic over a mold of	10:44:59
24	what you're trying to do. It's not hard. We have	10:45:03
25	got a slip-resistant bottom. Once again, we make	10:45:10

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1	it to cool it. We put the copper through it.	10:45:13
2	Then there's the -- some of them come up and go	10:45:16
3	sideways, different dimensions.	10:45:17
4	So we would have to -- and then the	10:45:19
5	government wanted it to come up the wall at least	10:45:21
6	an inch or two, and we had to have both our tubs	10:45:24
7	and our shower pads certified by the government by	10:45:26
8	bringing it to a certification agency, like a UL	10:45:30
9	or IAPMO or whatever.	10:45:34
10	And we would publish those certifications,	10:45:40
11	and we actually paid the certification company to	10:45:44
12	do surprise visits. They would walk in, they	10:45:46
13	would stamp their stamp on either a tub or a	10:45:50
14	shower pan, and we have to send it in to be	10:45:52
15	examined.	10:45:55
16	And then, when I went to an apartment	10:45:55
17	building or retirement home -- I did some work for	10:45:57
18	the city. I did a lot of work for Northwestern	10:46:01
19	University. I did a big hotel here, what was it?	10:46:04
20	I think it was a big Radisson.	10:46:07
21	Anyhow, we would have to show the	10:46:09
22	certification. They'd want everything from slip	10:46:12
23	resistance to yellowing to staining to, you know,	10:46:14
24	just the wear away.	10:46:19
25	So we would have to pass all those tests,	10:46:22

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1	and once a year they would give us a new	10:46:25
2	certification, and we'd use that in our sale.	10:46:28
3	If we didn't have certification, a	10:46:30
4	building inspector could shut us down, and the	10:46:32
5	certification we used was good in both the U.S.	10:46:36
6	and Canada.	10:46:39
7	Q So there was this other company in	10:46:40
8	Arizona --	10:46:42
9	A Yes --	10:46:42
10	Q And then --	10:46:42
11	A There's actually a few of them.	10:46:43
12	Q So did -- let me finish my question,	10:46:44
13	first.	10:46:48
14	So this other company in Arizona which was	10:46:48
15	doing acrylic, right?	10:46:50
16	A Yes.	10:46:52
17	Q And then was Joe still doing PVC in	10:46:52
18	Massachusetts?	10:46:55
19	A Yes.	10:46:56
20	Q Do you know, did he ever switch over to	10:46:56
21	acrylic?	10:46:58
22	A No, he never did.	10:46:59
23	Q Is he still operating today?	10:47:00
24	A No, he sold the company. And they closed	10:47:02
25	that division, and they only make -- their	10:47:05

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1	specialty is gigantic parts for gigantic military	10:47:09
2	things.	10:47:14
3	Q Still in the bath space or just general	10:47:15
4	parts?	10:47:17
5	A No, no, no. They're making covers for	10:47:17
6	these big C5As for missile submarines, really	10:47:19
7	expensive.	10:47:25
8	Q Got it.	10:47:26
9	A How he got into the bath space is he had a	10:47:27
10	bunch of scrap plastic, and he made discs about	10:47:30
11	ten inches, and he sold them to public housing so	10:47:34
12	that when they slam the door open, it didn't punch	10:47:37
13	a hole in the wall.	10:47:40
14	Q I've seen those.	10:47:41
15	A Okay.	10:47:42
16	Q I'm aware of those.	10:47:42
17	A Okay.	10:47:45
18	Q All right. So you -- how long,	10:47:45
19	approximately, have you been in the bath industry?	10:47:47
20	A '80.	10:47:53
21	Q Since 1980?	10:47:54
22	A Probably, yeah. Because when I repaired	10:47:55
23	counters, many of those counters were in the	10:48:01
24	bathroom.	10:48:04
25	Q Uh-huh.	10:48:07

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1	A	What was going on in the bathroom -- I	10:48:08
2		don't know if you're old enough to remember -- but	10:48:10
3		the --	10:48:11
4	Q	Probably not.	10:48:11
5	A	-- material -- the material back then was	10:48:12
6		imitation marble. And it had stress cracks around	10:48:13
7		the drain. It was called spider cracking. And	10:48:21
8		that spider cracking was made because of the	10:48:23
9		polyurethane coating that they used on top of the	10:48:26
10		marble to make it shiny had what they called heat	10:48:30
11		cycles, where you go -- you know, its cold, it's	10:48:32
12		in the winter, it's up against the wall. Somebody	10:48:34
13		turns the hot water on, that puts a stress on it,	10:48:36
14		and after so many cycles, it would start to crack.	10:48:40
15		And we would also have to have our	10:48:42
16		products tested for a certain amount of heat	10:48:44
17		cycles. Interestingly enough, after so many	10:48:46
18		cycles, they didn't care if it cracked. So we	10:48:49
19		actually beat the minimum, but that's just the way	10:48:53
20		it was made back in the day. They don't do that	10:48:55
21		anymore. They have much better materials.	10:48:57
22	Q	And so do you still -- does Luxury Bath	10:49:06
23		Systems still exist today as an entity?	10:49:11
24	A	No.	10:49:13
25	Q	What happened to it?	10:49:13

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1	A When I sold it, they changed the name.	10:49:14
2	They bought the customer list only, and they	10:49:17
3	changed the name -- they bought the customers and	10:49:19
4	the patents they had.	10:49:23
5	I had a patent on spraying a bathtub. I	10:49:23
6	had a bath -- no, not spraying. Excuse me.	10:49:26
7	Making a bathtub in the home. I had a	10:49:28
8	patent on making a formed front skirt, and then	10:49:31
9	this patent here.	10:49:41
10	Q Do you know, those other patents, did they	10:49:43
11	issue as U.S. patents or were they just filed as	10:49:45
12	patent applications?	10:49:47
13	A Truthfully, I don't remember. Here's why:	10:49:50
14	I had a lawyer on staff, and we -- once I	10:49:57
15	got the project going and get all the -- I was so	10:49:59
16	busy I couldn't see straight. My wife was going	10:50:03
17	to leave me because I was always working, so I let	10:50:06
18	every individual manager run their department so	10:50:12
19	that I could run mine.	10:50:14
20	My job, as the CEO of the company, it was	10:50:16
21	like any other CEO, I -- you have a lot of hats to	10:50:19
22	run. But mostly, at first, I did all the	10:50:22
23	technical stuff, and then I hired a technical guy.	10:50:25
24	Thank God, he was smart. He was a college	10:50:29
25	professor. He taught shop, and he's still out	10:50:32

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1	there. He's working as the technical director for	10:50:37
2	American Standard right now.	10:50:39
3	Q Who -- what's his name?	10:50:41
4	A Jeff Kincaid.	10:50:43
5	Q And when did you hire Jeff Kincaid?	10:50:44
6	A I have no idea. Long ago, '90s --	10:50:47
7	Q '90s?	10:50:49
8	A -- if I have to guess, early '90s.	10:50:50
9	Q Do you know when he left?	10:50:52
10	A Six years ago, when I sold the company.	10:50:55
11	Q So he was there from the early '90s	10:50:58
12	through --	10:51:00
13	A Yes.	10:51:00
14	Q Okay.	10:51:00
15	A I could get ahold of him. He's still	10:51:00
16	working. I got his number.	10:51:03
17	Q What's -- so just before you sold Luxury	10:51:03
18	Bath -- I guess better question. Strike that.	10:51:09
19	To whom did you sell Luxury Bath Systems?	10:51:12
20	A I sold the customer list and the patents	10:51:18
21	to Scott Rosenbach, who owns BCI. BCI means Bath	10:51:20
22	Crafters, Inc.	10:51:20
23	Q And did you sell them to Scott as an	10:51:26
24	individual or to BCI as a company, do you know?	10:51:29
25	A I don't know.	10:51:30

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1	MR. REMUS: Hold on. The one thing I'll	10:51:31
2	caution you is:	10:51:33
3	Don't disclose any information that is	10:51:33
4	confidential to BCI, especially because we have a	10:51:36
5	competitor on the phone today so --	10:51:40
6	THE WITNESS: Okay. I don't know. That's	10:51:41
7	the truth. I don't remember. It was a whirlwind.	10:51:42
8	BY MR. HALVERSON:	10:51:44
9	Q Do you remember when that sale happened?	10:51:45
10	A Probably '14 or '15.	10:51:49
11	Q 2014 or 2015?	10:51:55
12	A Yeah. Let me guess. Hang on. It's three	10:51:56
13	now. Maybe...	10:52:03
14	I'm not good with dates. Let's say '15,	10:52:04
15	'16. I really don't -- I really don't know, you	10:52:08
16	know, it's a blur to me.	10:52:10
17	Q Were there formal documents that you	10:52:12
18	signed to complete the sale?	10:52:14
19	A Wait a minute. Wait a minute. Hang --	10:52:15
20	hang on.	10:52:18
21	It might have been '16. One of the many	10:52:19
22	reasons why I had to sell is I had kidney cancer,	10:52:22
23	and they told me that I didn't have long. And on	10:52:27
24	top of that, I had some problems at work. I had	10:52:32
25	actually retired and came back because of -- they	10:52:35

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1	had to fire the other CEO.	10:52:42
2	I was worried about just living at the	10:52:44
3	time. Northwestern fixed it. They took my kidney	10:52:46
4	out, and the doctor said I got it just in time, so	10:52:48
5	for that I am grateful.	10:52:52
6	Q They've got a great operation there.	10:52:53
7	A Oh, I know. I have bone marrow cancer	10:52:55
8	right now, and they're treating me. I'm on chemo	10:52:59
9	pills every day, and I got three more years,	10:53:01
10	according to them.	10:53:03
11	Q The -- you said that they had to fire the	10:53:04
12	other CEO.	10:53:06
13	A Yes.	10:53:07
14	Q I thought you were the CEO of --	10:53:08
15	A I couldn't -- I retired at that time.	10:53:10
16	Q Okay. When did you retire from Luxury	10:53:11
17	Bath?	10:53:19
18	A Maybe '14.	10:53:21
19	Q Okay.	10:53:23
20	A I retained 20 percent of the shares, but	10:53:23
21	I -- I had family issues. My mom and dad both	10:53:27
22	were dying of cancer. My mother-in-law and	10:53:30
23	father-in-law were dying of cancer.	10:53:33
24	So my wife and I decided to buy a big	10:53:34
25	house in Florida so they'd have a room and be able	10:53:37

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1	to have guests, and we'd bring them down there.	10:53:41
2	We went to Orlando because there was a good	10:53:44
3	hospital down there then. And our goal was to	10:53:47
4	stay with them until they passed, which is pretty	10:53:49
5	much what we did.	10:53:51
6	Q And so --	10:53:52
7	A And then we came back here, because our	10:53:53
8	kids are here.	10:53:56
9	Q Roughly 2014 you retired?	10:53:58
10	A Yeah.	10:54:00
11	Q Took a couple of years off, but retained a	10:54:01
12	small ownership percentage in --	10:54:06
13	A If you consider 20 percent small, okay.	10:54:08
14	Q A sizeable ownership percentage?	10:54:11
15	A Whatever, 20 percent, yeah.	10:54:11
16	Q A 20 percent ownership percentage in	10:54:15
17	Luxury Bath?	10:54:16
18	A Yeah.	10:54:17
19	Q Throughout all of this, did you have any	10:54:18
20	involvement or ownership rights in Heartland Bath	10:54:20
21	still?	10:54:25
22	A No. Totally --	10:54:25
23	Q They were entirely gone.	10:54:26
24	A Totally gone. They were just a customer.	10:54:26
25	Q And so there was a different CEO from 2014	10:54:34

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1	until 2015 or so --	10:54:36
2	A Yeah.	10:54:36
3	Q -- you were gone for about a year?	10:54:38
4	A Yeah, yes. I had a lawyer.	10:54:39
5	Q They had a lawyer?	10:54:41
6	A I had a lawyer -- a lawyer ran the	10:54:42
7	company. The other partners chose a lawyer. His	10:54:44
8	name was Mike Krawitz.	10:54:48
9	Q Got it. Got it, got it.	10:54:53
10	A We didn't know at the time, he was wasn't	10:54:54
11	a legal lawyer. He had been disbarred for theft.	10:54:58
12	We had no idea. He acted as our lawyer. He went	10:55:02
13	to school to be a lawyer, but like I said, he was	10:55:06
14	disbarred.	10:55:09
15	Q And was he Luxury Bath's lawyer before he	10:55:10
16	became the CEO?	10:55:14
17	A Yes, that's why the rest of them wanted	10:55:14
18	it.	10:55:17
19	Q Got it.	10:55:17
20	A And like I said, I had to leave and take	10:55:18
21	care of my folks and my wife's folks.	10:55:21
22	Q And so we'll get back to 2014, 2015, 2016	10:55:29
23	in a second.	10:55:33
24	You've mentioned a couple of patents that	10:55:34
25	you've had a few times.	10:55:36

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1	A Uh-huh.	10:55:38
2	Q How would you characterize your	10:55:39
3	familiarity with the patenting process?	10:55:41
4	A You hire a lawyer who does a patent, and	10:55:43
5	they help you. The better help you have, at any	10:55:46
6	position, from technical in the back room, the	10:55:51
7	better things are. I am not a genius at	10:55:55
8	everything. I'm an inventor and I'm a tinkerer,	10:55:58
9	and I do my part, and then we work with them.	10:56:02
10	Q And so you've used the word "inventor" a	10:56:06
11	few times. What does that mean to you?	10:56:12
12	A I like to figure out how to improve	10:56:13
13	things. I like to look at a situation and say:	10:56:17
14	What can I do different and better?	10:56:19
15	And that's, like, in the manufacturing	10:56:23
16	process, I was always working on never-ending	10:56:26
17	improvements, and I believe every company would --	10:56:34
18	what's that -- I forget the Japanese word, but	10:56:37
19	it's a very common thing, that what you have to	10:56:39
20	do, because if you don't, you'll get run over by	10:56:41
21	your competition. Run over.	10:56:45
22	So somebody needs to -- in the company	10:56:47
23	needs to lead to the future, always new products	10:56:49
24	coming out, always new things coming out.	10:56:52
25	Q So I want to hand you an exhibit and ask	10:56:54

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1	you some questions about it.	10:56:57
2	A Okay.	10:56:58
3	MR. HALVERSON: For the record, it's	10:56:59
4	U.S. Patent Number 10,144,243, and it has Bates	10:57:00
5	ranges spanning BCI00000001 through 9.	10:57:09
6	(Domanico Exhibit 1 is introduced for the	10:57:15
7	record.)	10:57:18
8	THE WITNESS: It has what? What did you	10:57:18
9	call it?	
10	MR. HALVERSON: One second. I'm going to	
11	have the cort reporter put a stamp on it, and	
12	she's going to hand it to you.	
13	THE WITNESS: Okay. What did you call it?	
14	THE REPORTER: Hold on. Let me just	
15	write.	10:57:38
16	BY MR. HALVERSON:	10:57:38
17	Q She's got to take down everything.	10:57:38
18	A Okay.	10:57:38
19	Q So Bates ranges --	10:57:38
20	A Okay.	10:57:38
21	Q -- or Bates numbers, are digits --	10:57:39
22	A Okay. Got it.	10:57:39
23	Q -- that are stuck on the bottom of a	10:57:41
24	document --	10:57:42
25	A Okay.	10:57:42

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1	Q -- in a litigation, so that everybody	10:57:43
2	knows that we're talking about the same thing.	10:57:45
3	A Okay. This is the Rolling Stone version.	10:57:47
4	Q Yeah. So this is the version that was	10:57:50
5	produced in this case of this patent --	10:57:53
6	A Uh-huh.	10:57:54
7	Q -- and for the rest of this case, the	10:57:55
8	parties will understand that BCI00000001 will be	10:57:57
9	the first page of this patent.	10:58:02
10	A Okay.	10:58:04
11	Q So it's just a way of making sure that we	10:58:04
12	are all on the same page. Fair?	10:58:07
13	A Okay.	10:58:09
14	Q Okay. Have you ever seen this document	10:58:12
15	before?	10:58:13
16	A Yeah, when it first came out.	10:58:15
17	Q Is this your patent?	10:58:16
18	A Yeah.	10:58:18
19	Q And so I want to ask you a couple of	10:58:18
20	general patent questions before getting into	10:58:21
21	specifics about this one.	10:58:23
22	And to Mr. Remus's point, I'm not trying	10:58:24
23	to get into conversations that you had with	10:58:30
24	lawyers.	10:58:32
25	A Okay.	10:58:32

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1	Q	So if the basis for some something is "The	10:58:32
2		lawyer told me," I don't want you to disclose that	10:58:36
3		information. That's privileged information.	10:58:39
4	A	Okay.	10:58:40
5	Q	But I want to get an understanding of your	10:58:41
6		personal knowledge and your personal awareness of	10:58:43
7		certain things regarding patents, okay?	10:58:46
8	A	Okay.	10:58:48
9	Q	So do you understand what a patent claim	10:58:49
10		is?	10:58:51
11	A	Uh-huh.	10:58:51
12	Q	What is a patent claim?	10:58:52
13	A	That you have certain rights that the	10:58:54
14		government guarantees --	10:58:56
15	Q	And --	10:58:56
16	A	-- for a certain amount of time.	10:58:58
17	Q	And do you know how long that period of	10:59:00
18		time is?	10:59:02
19	A	I don't know. I thought it was, like,	10:59:02
20		17 years. I really don't know.	10:59:06
21	Q	And so if you could flip to the last page	10:59:09
22		of that document.	10:59:11
23	A	Okay.	10:59:15
24	Q	There are some numbered paragraphs.	10:59:16
25	A	There sure are.	10:59:19

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1	Q	So those -- those numbered paragraphs in	10:59:20
2		patent parlance are called patent claims.	10:59:23
3	A	Okay.	10:59:26
4	Q	And those patent claims define what it is	10:59:26
5		that the patent covers.	10:59:29
6	A	Right.	10:59:31
7	Q	The right to exclude is defined by those	10:59:32
8		patent claims.	10:59:34
9	A	Okay.	10:59:35
10	Q	And then before that we have a bunch of	10:59:35
11		text and some images.	10:59:38
12	A	Right.	10:59:41
13	Q	The patent as a whole is the patent. The	10:59:42
14		claims come at the end.	10:59:44
15		The specification and the written	10:59:45
16		description -- excuse me, the written description	10:59:46
17		is that text in the middle, and then we've got	10:59:48
18		images in the -- in the front.	10:59:50
19	A	Right.	10:59:52
20	Q	So approximately how many patent	10:59:52
21		applications have you filed?	10:59:57
22	A	Personally, none, but I always had lawyers	11:00:00
23		do it. Is that what you mean, personally?	11:00:06
24	Q	The first question was you personally,	11:00:06
25		yes.	11:00:08

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1	A	No, I don't -- I hire people. If I don't	11:00:08
2		know, I hire people.	11:00:11
3	Q	And how many patent applications are you	11:00:12
4		aware of that you provided to a lawyer, who then	11:00:16
5		actually filed them at the Patent Office?	11:00:20
6	A	I guarantee two of them, but I actually	11:00:24
7		long ago -- I think three of them, actually.	11:00:29
8	Q	And so one of them is this one?	11:00:31
9	A	One of them is this one.	11:00:34
10	Q	One of them is the sprayer?	11:00:37
11	A	The one will build -- make a bathtub in	11:00:38
12		the home.	11:00:40
13	Q	Uh-huh.	11:00:40
14	A	And the other one was for a formed front	11:00:41
15		skirt, which one time I had to go to court to	11:00:45
16		defend it. Cost me a fortune in legal fees, make	11:00:48
17		you happy, but it didn't make me happy. And I	11:00:52
18		actually won that case, and the judge made them	11:00:55
19		change what they were doing.	11:00:58
20	Q	What do you mean had to go to court to	11:00:58
21		defend it? You were --	11:01:01
22	A	Well, somebody was using my patent, and I	11:01:02
23		got no royalties from it. Or credit. So I just	11:01:04
24		said to my lawyer -- I went to see the lawyer and	11:01:08
25		said, What should we do? The lawyer said, well,	11:01:11

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1	I'll send a cease-and-desist. There were a series	11:01:14
2	of cease-and-desists.	11:01:19
3	I knew the guy. I called him up and said,	11:01:21
4	Look, just find a different way. Just don't steal	11:01:23
5	my patent, because it's worth something to me.	11:01:27
6	And some day when I sell the business, that will	11:01:28
7	be part of the sale, and it's not -- the sale	11:01:31
8	won't be as useful without that patent, so please	11:01:33
9	just do it a different way, and there are other	11:01:37
10	ways to do it. But we had to go to court, and	11:01:39
11	eventually it was settled and I won.	11:01:41
12	Q Do you remember who the other party was?	11:01:44
13	A Sure.	11:01:46
14	Q Who was it?	11:01:46
15	A Mark Smith, my best friend. And we laugh	11:01:47
16	about it all the time now, but I was serious. You	11:01:51
17	don't step on somebody's patent.	11:01:53
18	Q And so I want to get into a little bit of	11:01:55
19	the background behind this --	11:01:59
20	A Okay.	11:02:00
21	Q -- patent.	11:02:01
22	Can you describe for me what it is, your	11:02:03
23	understanding of what this patent is?	11:02:08
24	MR. REMUS: Object to form.	11:02:09
25	You can answer the question.	11:02:14

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1	THE WITNESS: It's a complicated answer,	11:02:15
2	okay?	11:02:17
3	There's what the patent is, and that's not	11:02:18
4	as important to me as what the patent does. I	11:02:23
5	invented this for a whole series of things that	11:02:28
6	are not on here, because it's really not part of	11:02:31
7	the making of this particular piece of equipment.	11:02:35
8	But once the piece of equipment is made,	11:02:39
9	according to this patent, it saves me a lot of	11:02:42
10	time and a whole lot of money, and I can take care	11:02:48
11	of my customers way better because of this	11:02:51
12	invention.	11:02:54
13	BY MR. HALVERSON:	11:02:54
14	Q And so I want to unpack that a little bit.	11:02:55
15	You said, "I invented this for a whole series of	11:02:58
16	things that are not on here."	11:03:01
17	A Right.	11:03:03
18	Q I want to ask two questions inside of	11:03:03
19	this, and I want to put both of them in your head	11:03:08
20	before I actually ask either one of them.	11:03:11
21	But when you say, "I invented this for a	11:03:14
22	whole series of things that are not on here,"	11:03:17
23	first question is, what is the "this" that you	11:03:19
24	invented? And then the second question is going	11:03:23
25	to be: What are the whole host of things that are	11:03:25

1	not on here.	11:03:28
2	And so what is the "this" that you're	11:03:28
3	referring to?	11:03:28
4	A "This" is the -- how you make this	11:03:28
5	particular sheet look like a tile wall that really	11:03:29
6	is different than anything else out there.	11:03:33
7	The other thing is: What does it solve?	11:03:35
8	Why would you make a patent for a sheet that looks	11:03:39
9	like a tile wall?	11:03:43
10	And here's all the wonderful things it	11:03:44
11	does that could change my life.	11:03:47
12	Originally, a few minutes ago, we talked	11:03:50
13	about how I make molds, and those molds have to be	11:03:54
14	chilled, and those molds are expensive, and those	11:03:58
15	molds were made from aluminum, and those molds are	11:04:02
16	5, 6,000 a piece if you have them done outside, or	11:04:05
17	if you make them inside, you could probably do it	11:04:08
18	for a grand. But you still have to make a mold.	11:04:10
19	And when you make a wall, you can only	11:04:14
20	make that pattern. So we would make a series of	11:04:16
21	molds for walls for different tile looks, and what	11:04:20
22	we called it was a tile look.	11:04:25
23	Now, when you take a -- one sheet of	11:04:28
24	plastic, and you it down over a mold, that plastic	11:04:32
25	assumes the shape of the mold when it hardens.	11:04:38

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1	But if you look at it, does it really look	11:04:41
2	like a tile wall or is it a bunch of squares?	11:04:43
3	Many, many customers would say to me, Oh,	11:04:47
4	I don't want that. It looks like plastic.	11:04:49
5	And the reason they said that was the	11:04:52
6	grout was the exact same pattern, color and shine	11:04:54
7	and had the pattern going through it. You could	11:04:59
8	easily see that wasn't grout. That was plastic	11:05:02
9	sucked over a mold.	11:05:05
10	Q Uh-huh.	11:05:05
11	A And it looked inexpensive, although it was	11:05:08
12	expensive to make, because if I had to have all	11:05:13
13	these different molds, I had to store them.	11:05:17
14	And then let's say I order six of this	11:05:19
15	particular wall. Somebody's got to go get the	11:05:22
16	mold, somebody's got to get the forklift,	11:05:24
17	somebody's got to set it up, somebody's got to	11:05:29
18	preheat it.	11:05:31
19	I got an hour, half hour to an hour,	11:05:32
20	depending if it's summer or winter, before that	11:05:34
21	mold is ready to go into production, and then I	11:05:37
22	make however many pieces I need. I usually waited	11:05:39
23	until the end of the week because it's so	11:05:42
24	cumbersome to take out at mold.	11:05:44
25	It would tie up a machine, it would tie up	11:05:47

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1	a man. All that costs money, okay?	11:05:50
2	So one of the things this does is I no	11:05:53
3	longer needed molds. I saved a fortune in real	11:05:55
4	estate where I had stacks and stacks of molds,	11:06:00
5	because of -- now you just program the mold with a	11:06:02
6	CNC router.	11:06:06
7	So look at the front page. You see that	11:06:07
8	design in the middle? This design is called a	11:06:10
9	Listello, and we had about six, eight of them, and	11:06:13
10	we used to make them separately, and we used to	11:06:17
11	have to form them separately. Then we had to cut	11:06:21
12	the sheet, put the Listello in the middle when we	11:06:23
13	were doing the installation.	11:06:26
14	With this, I could put any Listello they	11:06:29
15	want with any type of tile pattern on any color.	11:06:34
16	So that really improved efficiency on our	11:06:37
17	end. But the biggest thing it did was from the	11:06:40
18	customer's point of view, by using the router,	11:06:43
19	once you take off that clear layer, and you get	11:06:47
20	into the ABS layer, it's kind of gritty. And it's	11:06:49
21	dull. So you have this very high gloss sheet, or	11:06:55
22	high gloss tile, and then a dull surface that	11:06:57
23	looked like grout. So it was a much more	11:07:02
24	realistic. From the customer's point of view, it	11:07:05
25	was more beautiful. They were willing to pay	11:07:10

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1	more. Yet it was way easier for me to make,	11:07:13
2	because I could make one of anything or ten of	11:07:17
3	anything. I just put it in there.	11:07:20
4	In your copier machines, I'm sure you	11:07:23
5	store certain docs that you press all the time.	11:07:25
6	Well, that's what I had on my CNC. I had a whole	11:07:27
7	bunch of programs that we had developed that you	11:07:31
8	just pick it, and you hit print, and the CNC would	11:07:33
9	go to work.	11:07:36
10	And so I had a better product, better	11:07:37
11	looking product, easier-to-make product. It saved	11:07:40
12	me a whole bunch of labor in the factory. I could	11:07:43
13	make it quicker, because if somebody calls me and	11:07:47
14	says, Look, I really need a wall yesterday. Could	11:07:50
15	you get it out tomorrow? I didn't want to take	11:07:52
16	down a mold, okay? But this, I'll throw your	11:07:55
17	sheet in next. It was faster, I didn't have to	11:07:59
18	heat it, so I had no warping. This was brilliant	11:08:02
19	in so many ways.	11:08:05
20	So although you see a patent on how to	11:08:06
21	make the sheet, which is the last page, the	11:08:09
22	importance of it was looking at it in its	11:08:11
23	entirety. This patent covers making it, but it	11:08:15
24	doesn't cover all the wonderful things it did for	11:08:19
25	my company and for my customers, and that's what I	11:08:22

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1	mean by an inventor. And I could make it in any	11:08:26
2	size, too.	11:08:40
3	Q What do you mean by that?	11:08:41
4	A Well, there are different sizes. Some	11:08:42
5	tubs are 14 inches high, some tubs are up to	11:08:48
6	18 inches high. So the bath walls would be	11:08:51
7	different sizes.	11:08:53
8	So when I go do, let's say, a military	11:08:53
9	base, so I go to an Army a base somewhere, to save	11:08:56
10	them money, I would only cut exactly the size they	11:08:59
11	needed or I would order from the manufacturer only	11:09:02
12	the size I needed.	11:09:05
13	Now, let me show you about waste and	11:09:06
14	efficiency. When I buy a white sheet to put it	11:09:08
15	into my thermoformer, in order to make these	11:09:12
16	patterns, there's a clamp all the way around it.	11:09:17
17	Q Uh-huh.	11:09:19
18	A My CNC would cut it out to be this. And	11:09:20
19	we'd only use the part that we put on the wall,	11:09:25
20	but we would throw out maybe 10 percent in total	11:09:28
21	weight.	11:09:31
22	10 percent of the cost was scrap, and	11:09:31
23	because it was multilayer, that scrap wasn't	11:09:34
24	always usable. If -- there were certain things I	11:09:39
25	could use it for, like other walls, but I couldn't	11:09:43

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1	never use it for a bathtub, it had to be virgin,	11:09:47
2	because there's so many heat cycles a tub could	11:09:51
3	make.	11:09:55
4	Also, if it was a marble pattern, I	11:09:55
5	couldn't that because the colors would ruin the	11:09:59
6	white.	11:09:59
7	So this saved me 10 percent of materials.	11:10:00
8	Materials was my second biggest cost other than	11:10:01
9	labor. So, like I said, a whole host of things	11:10:04
10	that this invention saved my company.	11:10:07
11	Q Did you have to use different sheets of	11:10:09
12	acrylic?	11:10:12
13	A Well, yeah. Here's -- here's what I mean	11:10:14
14	by different sheets:	11:10:17
15	Some of them were white, biscuit, almond,	11:10:19
16	gray, black, marble patterns, granite patterns.	11:10:22
17	So, yes, depending on what the customer ordered.	11:10:30
18	Q Sorry, my question was slightly different	11:10:32
19	and it wasn't clear, so let me try again.	11:10:34
20	Between the thermal molding process and	11:10:37
21	the CNC routing process --	11:10:37
22	A Essentially do that, essentially.	11:10:37
23	Q Okay.	11:10:47
24	THE REPORTER: I'm sorry --	11:10:47
25	BY MR. HALVERSON:	11:10:47

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1	Q Rule number 1.	11:10:47
2	THE REPORTER: Yes, I didn't get what you	11:10:47
3	were saying because the question was interrupted.	11:10:47
4	Can you just start the question again?	11:10:48
5	BY MR. HALVERSON:	11:10:48
6	Q Between the thermal molding acrylic sheets	11:10:50
7	and the CNC routed acrylic sheets, were there	11:10:53
8	differences that were needed?	11:10:57
9	A The only difference was I used the exact	11:10:58
10	size, instead of an oversize sheet, because they	11:11:01
11	didn't have the waste from trimming it from all of	11:11:04
12	the clamps that were necessary to heat it up.	11:11:10
13	So because I didn't have to heat it and	11:11:12
14	clamp it, like I said, I saved 10 percent of the	11:11:15
15	total cost, and that's huge.	11:11:18
16	Q When you purchased sheets of acrylic from	11:11:24
17	the Austrian company, Liberty Plastics, SparTek,	11:11:29
18	what have you --	11:11:33
19	A Uh-huh.	11:11:36
20	Q What --	11:11:36
21	A Senoplast was the one we were talking	11:11:36
22	about before.	11:11:39
23	Q One more time?	11:11:40
24	A Senoplast.	11:11:40
25	Q Senoplast. What form did those take?	11:11:42

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1	Were they --	11:11:46
2	A Flat sheets.	11:11:46
3	Q -- in a roll? You'd just get a pallet of	11:11:47
4	flat sheets?	11:11:49
5	A Yes. I had certain sizes that we -- were	11:11:49
6	the most common. But if I had a big job, I would	11:11:52
7	order the exact size if it was not going to be	11:11:55
8	thermoformed, because it would save money, and	11:11:59
9	that would help me get the job, because when	11:12:03
10	you're bidding with a GSA, say, every dollar	11:12:06
11	counts. You know, you're up against a whole bunch	11:12:11
12	of other people, so if they're using the old way,	11:12:14
13	where they have a lot of trim, they got to put	11:12:18
14	that into the price, and they got to heat it, and	11:12:20
15	they can handle a bunch more, and they had to pay	11:12:24
16	for the molds. This went right past all that.	11:12:25
17	Q What is the standard size that you	11:12:28
18	would -- of acrylic sheet that you would buy from	11:12:30
19	something like Senoplast?	11:12:33
20	A Five foot by a foot for a bath wall, and	11:12:36
21	then 34 or 36 for a side wall. And then we bought	11:12:41
22	wainscoting sizes too.	11:12:46
23	Q What is a wainscoting size?	11:12:48
24	A You ever see a wall halfway up?	11:12:52
25	Q Yes.	11:12:57

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1	A That's called wainscoting. And I could do	11:12:57
2	that in just plain white or we could do it in a	11:12:58
3	tile look, we could do it in a marble, and then we	11:12:58
4	had a cap over the top, you know, like you see in	11:13:00
5	the hospitals where they bang into it	11:13:03
6	with -- yeah.	11:13:05
7	Q And so, where did the idea come from?	11:13:06
8	A I was somewhere, and I saw a name -- I've	11:13:08
9	been thinking about all the damn steps that we	11:13:13
10	would take in the back room, and how much room and	11:13:18
11	how much energy, and all the other good stuff.	11:13:24
12	And I wasn't getting anywhere, and I had a	11:13:25
13	flash. I saw somebody's name tag that was not	11:13:29
14	name tag. On their desk. It was wood grain, and	11:13:30
15	it was routed with their name, and it was white	11:13:34
16	underneath it because it was a two-layer sheet.	11:13:37
17	Wood lanyard.	11:13:43
18	And I said, you know, dammit, that could	11:13:44
19	solve half my -- and the more I thought about it	11:13:48
20	sitting there waiting, the more ideas were popping	11:13:50
21	into my head, going, This is awesome. Oh, my God.	11:13:53
22	So I got to -- I got to do this.	11:13:57
23	So I went and I picked up a piece of scrap	11:13:58
24	metal, and I asked one of my guys: Could you rout	11:14:02
25	this? This is what I'm looking for. I'm looking	11:14:06

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1 for, like, a 6 x 9, or Roman block. This is 11:14:08
2 probably 6 x 12, and this is a herringbone. You 11:14:14
3 could do it any way you want, actually. 11:14:17

4 And what I used to do it originally was 11:14:19
5 the blades that we had on the machine. The router 11:14:24
6 bit was a straight bit, because we were using it 11:14:29
7 to cut out sheets from the clamp -- the clamp 11:14:32
8 frame. 11:14:38

9 Q So there was already a CNC routing bit -- 11:14:39

10 A On the machine. On the machine. 11:14:41

11 Q -- on the thermal molding machine? 11:14:42

12 A It wasn't the thermal molding. It was its 11:14:44
13 own CNC. It was actually bigger than the thermal 11:14:47
14 molding machine. 11:14:51

15 I bought a used German CNC that was really 11:14:51
16 a piece of crap at an auction. It was a company 11:14:56
17 that was going out of business. It was very 11:14:58
18 difficult to work with because of its age, but it 11:15:00
19 did the job, and because it had a straight bit, it 11:15:03
20 left sharp edges. 11:15:10

21 Matter of fact, I cut myself on the 11:15:11
22 original edge, it was that sharp, but that was my 11:15:14
23 prototype, and it proved what I wanted. 11:15:19

24 So at that time I had a different job 11:15:24
25 within the company. I had -- we had hired a CEO, 11:15:26

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1 another lawyer, and I was out working with the 11:15:29
2 customers trying to regain their trust, because 11:15:32
3 of4k -- I'm a people person, and everybody liked 11:15:34
4 me, so they said, You go out, you sit with the 11:15:37
5 customers, you tell them that we're going to fix 11:15:41
6 all the problems we're having, and we were having 11:15:44
7 problems. 11:15:46

8 So I took this prototype, and I took it to 11:15:46
9 a whole bunch of people. Jeff was one of them, 11:15:50
10 and everybody really liked it, including Jeff. 11:15:53

11 Q And so that German CNC machine that you 11:15:56
12 already had on-site -- 11:15:59

13 A Uh-huh. 11:16:01

14 Q -- was that -- were you able to add 11:16:02
15 designs to it or how did you control where that 11:16:05
16 bit went? 11:16:08

17 A Well, it had a control head. It had an 11:16:09
18 interpreting thing. You put in a program -- 11:16:12
19 because it was older, you put in coordinates. 11:16:17
20 You'd say go so far, you turn 90 degrees, go so 11:16:21
21 far, you'd go -- you know, and you would tell it. 11:16:25

22 So it was a cumbersome way to put in a 11:16:26
23 design, like you see here in the Listello. But 11:16:29
24 you could do it in half a day, you could do it in 11:16:33
25 four hours, five hours per program, and then you 11:16:36

1	save that program forever.	11:16:39
2	What happened was eventually that had	11:16:40
3	died, and I bought a new American head, and then	11:16:43
4	it was so easy to control. You could actually	11:16:48
5	just do it on your computer in Windows, and you	11:16:51
6	take the program and put the jpeg in there, and it	11:16:54
7	just did it itself, made it so much easier.	11:16:56
8	Q Do you know, was that an autoCAD type of	11:17:00
9	drawing software?	11:17:03
10	A It wasn't the autoCAD. The autoCAD has an	11:17:04
11	interface between the CNC. I forgot what it's	11:17:09
12	called. Give me a second. Toolpath. Toolpath,	11:17:13
13	do you know it?	11:17:14
14	Q I do.	11:17:15
15	A So we would write it for Toolpath, and	11:17:16
16	Toolpath was the one that controlled the CNC.	11:17:19
17	Q Got it.	11:17:19
18	A And it was a beautiful program. Matter of	11:17:21
19	fact, my wife knew how to do CAD, because she was	11:17:24
20	an engineer at Bell Labs, and she wrote the	11:17:27
21	programs for us, and then we -- she put them in	11:17:30
22	the Toolpath, and then we'd just put them on a	11:17:32
23	jump drive and stick it in the -- stick it in the	11:17:35
24	machine. And she also ran another CNC that we had	11:17:37
25	for making -- working with solid surface.	11:17:40

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1	Q And so I want to -- the German CNC	11:17:43
2	machine --	11:17:47
3	A Right.	11:17:47
4	Q -- the first one that you guys had --	11:17:47
5	A Right.	11:17:49
6	Q -- could you have used Toolpath on that?	11:17:50
7	A Yeah.	11:17:52
8	Q What -- what ultimately happened to that	11:17:54
9	one? You said it --	11:17:57
10	A It's still working.	11:17:58
11	Q Oh, it did.	11:17:58
12	A It's still working right now. It's	11:17:59
13	pumping it out.	11:18:01
14	It's not our main one, because it's so	11:18:02
15	damn slow, bought they're so busy right now that	11:18:06
16	it's pretty much working -- it's not working three	11:18:11
17	shifts. We bought another --a laser one that	11:18:14
18	works a lot faster.	11:18:16
19	MR. REMUS: Don't disclose anything	11:18:16
20	confidential.	11:18:19
21	THE WITNESS: We bought another one that's	11:18:19
22	faster. That's all they wanted out of it, because	11:18:21
23	of -- that product sells really good, not only in	11:18:23
24	the bathtub industries, but in other industries,	11:18:28
25	too.	11:18:30

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1	MR. HALVERSON: So we have been going for	11:18:31
2	about an hour. I'm happy to keep going. If you'd	11:18:33
3	like to take a break and stretch your legs --	11:18:34
4	THE WITNESS: Only if you give me a Diet	11:18:34
5	Coke.	11:18:37
6	MR. HALVERSON: I can get you a Diet Coke.	11:18:37
7	Let's take two minutes, five minutes.	11:18:38
8	THE VIDEOGRAPHER: We are going off the	11:18:40
9	record. The time is 11:18 a.m.	11:18:42
10	(Recess taken.)	11:18:51
11	THE VIDEOGRAPHER: We are going back on	11:25:00
12	the record. The time is 11:25 a.m.	11:25:12
13	BY MR. HALVERSON:	11:25:12
14	Q Mr. Domanico, you said you wanted to	11:25:16
15	complete an answer on a question about claims, so	11:25:18
16	what would you like to complete there?	11:25:21
17	A I have worked with other patents that I	11:25:23
18	did not invent that changed the sheet. There is	11:25:30
19	a -- Dow Corning had invented an antimicrobial	11:25:37
20	product called Microban, and Microban can be put	11:25:40
21	into an acrylic wall system so that -- and into	11:25:48
22	caulk.	11:25:54
23	So what when we would go into a home, and	11:25:55
24	we would see they have mold everywhere, because	11:25:57
25	they didn't have a fan, and they would have these	11:26:00

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1	black lines, and it looked terrible, I would say,	11:26:03
2	We have -- I came up with this idea. I went to	11:26:07
3	Dow, and they said, You'll never get it approved,	11:26:11
4	and then, oh, okay.	11:26:13
5	But I worked hard. I actually hired a	11:26:13
6	guy, a professor to go to the FDA with me and get	11:26:15
7	some approval on this product. And today, and	11:26:18
8	since I came up with the idea, we have put	11:26:20
9	Microban, and Microban has a series of claims.	11:26:23
10	All pesticides. Anything that kills something is	11:26:27
11	a pesticide, according to the law. Even if it	11:26:32
12	kills germs, it's considered a pesticide.	11:26:35
13	So I had the claims on the form that the	11:26:37
14	FDA would allow. So I understood what I was	11:26:39
15	allowed to claim when I was in front of the	11:26:41
16	customer. I was not allowed to say, By killing	11:26:43
17	germs on your plastic sheet, you'd live a	11:26:47
18	healthier life, because there's no proof of that.	11:26:51
19	What I was allowed to claim is if mold or	11:26:53
20	mildew lands on the sheet, there's a built-in	11:26:57
21	antimicrobial, and that antimicrobial will arrest	11:26:58
22	the growth of mold and mildew in the caulking and	11:27:04
23	the sheet.	11:27:07
24	And at that time I was the only one with	11:27:07
25	an antimicrobial. And the reason I used Microban	11:27:09

1 instead of just, like, silver oxide, which you 11:27:13
2 could buy anywhere cheap, is there were a whole 11:27:17
3 bunch of phenomenally well-known companies. Like 11:27:20
4 Colgate puts it in the toothpaste so that you have 11:27:23
5 gingivitis protection. 11:27:23

6 And by saying, do you recognize -- do you 11:27:24
7 recognize all of these companies? They all use 11:27:29
8 Microban to protect what it is, and they have 11:27:31
9 claims. I have claims. And my claim is it's for 11:27:37
10 mold and mildew protection. 11:27:40

11 Q And so when you used the word "claims" 11:27:41
12 there, you are talking about what you were allowed 11:27:45
13 to say to the FDA? 11:27:48

14 A What I was allowed to say, yes. I was not 11:27:48
15 allowed to say It makes you healthier. It makes 11:27:51
16 your bath -- it protects that product from mold 11:27:53
17 and mildew. That's all I was allowed to say. 11:27:57

18 And I -- but I went down to the FDA with a 11:27:59
19 professional. The guy was -- I forgot his title. 11:28:03
20 Famous guy. University -- Georgia Tech. And he 11:28:09
21 was a chicken doctor. 11:28:15

22 And he invented -- he came out with this 11:28:16
23 to protect the processing plants. They would 11:28:20
24 spray every night to make sure everything 11:28:25
25 was -- after bleach and everything else, because 11:28:27

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1	it had a two-day effective period, according to	11:28:29
2	the FDA.	11:28:32
3	It did not. It actually had an extremely	11:28:33
4	long effective period. But the FDA didn't allow	11:28:36
5	that claim.	11:28:38
6	Q I see. I see.	11:28:39
7	A So I understand what you mean by claims is	11:28:40
8	I hire people to explain it to me, so that I knew	11:28:43
9	I didn't cross any boundaries when I went out	11:28:48
10	there. So I added that to my sheet, too.	11:28:51
11	Q And so I want to -- I want to shift gears	11:28:54
12	a little bit. You had given a shout-out to	11:28:55
13	Mr. Whitley --	11:28:59
14	A Yeah.	11:28:59
15	Q -- on the phone earlier?	11:28:59
16	When did you first meet Jeff Whitley?	11:29:01
17	A When he became a dealer.	11:29:02
18	Q When was that?	11:29:04
19	A I had hundreds of dealers. I can't	11:29:04
20	remember the date. Could I ask Jeff?	11:29:08
21	Q No, it's okay.	11:29:11
22	A Okay. We hit it off right away. He's a	11:29:13
23	good guy. He was in Canada. I love Canada. He	11:29:18
24	had a similar business. He had a distribution	11:29:21
25	point in Canada, and I went to see him, we went	11:29:24

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1	fishing together. Great guy. Had a beautiful	11:29:27
2	house, yard, amazing.	11:29:29
3	Q Was this, do you think, before or after	11:29:31
4	your first retirement from Luxury Bath?	11:29:34
5	A Oh, probably before.	11:29:38
6	Q And do you have an understanding of	11:29:41
7	whether or not it was before or after 9/11?	11:29:42
8	A It would have to be after, I would think.	11:29:52
9	Hey, you want to hear this? The night	11:29:56
10	before 9/11 I was at the Marriott World Trade	11:29:57
11	Center for dinner. Literally hours before.	11:30:00
12	12 hours.	11:30:04
13	Q So when you -- you said you -- you	11:30:10
14	mentioned Jeff's house. Have you been to Jeff's	11:30:11
15	house?	11:30:15
16	A Yes.	11:30:15
17	Q Where is it?	11:30:16
18	A It's in Bellevue -- Belleville, Canada,	11:30:17
19	part of Ontario, and it's right near Lake Erie.	11:30:21
20	And he has another house that used to be his dad's	11:30:25
21	right on Lake Erie, and he told me he's	11:30:27
22	building or he has built another one that he's	11:30:30
23	moving to soon.	11:30:32
24	Q And approximately how many times have you	11:30:33
25	been to Canada to visit Mr. Whitley?	11:30:35

Transcript of Mark Domanico
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1	A Two, maybe three, maybe four, because I go	11:30:39
2	on the road a lot where I just go bing-bing-bing,	11:30:42
3	and I don't remember how many times. It just --	11:30:45
4	because I talk one the phone, we text. All my	11:30:46
5	dealers are that way.	11:30:50
6	Q How -- has he ever been to visit you in	11:30:51
7	Chicago?	11:30:54
8	A Oh, yeah.	11:30:55
9	Q You --	11:30:55
10	A I always ask people to come to Chicago.	11:30:55
11	Q And when was the first time, best	11:30:58
12	recollection, that you recall Jeff coming to	11:31:02
13	Chicago?	11:31:03
14	A Probably one of our dealer meetings where	11:31:05
15	everybody shows up.	11:31:08
16	Q And you've mentioned dealers. You've got	11:31:10
17	a lot of dealers --	11:31:13
18	A Yeah, because I asked him to speak,	11:31:14
19	because Jeff does something that the other guys	11:31:16
20	don't do. Jeff sells, like, plumbing parts and	11:31:19
21	other things, and he really understood the	11:31:26
22	distribution portion.	11:31:28
23	Eventually we worked -- we started talking	11:31:29
24	about working together where he would take care of	11:31:34
25	all of the Canadian, because getting things sent	11:31:36

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1 across the border at the time was difficult. So 11:31:39
2 if he's shipping some parts to them, and I'm 11:31:42
3 shipping other parts to these -- why not just let 11:31:45
4 him ship and work with Canada? 11:31:47

5 We tried working on an agreement, but he 11:31:48
6 was being sued by another company called Five 11:31:50
7 Star, and I told him, I just don't want to get 11:31:55
8 involved in any legal disputes right now. You 11:31:59
9 guys work it out, tell me who won, and we'll pick 11:32:02
10 it up from there. But these things happen. 11:32:05

11 Q And how would you characterize your 11:32:07
12 current relationship with Jeff? 11:32:10

13 A Good. He just came to visit us. He 11:32:11
14 wanted some parts for -- he wanted some shower 11:32:15
15 pads. 11:32:19

16 I'm retired. I don't have a paycheck from 11:32:19
17 anybody, but I still help out two different 11:32:22
18 companies. I help out my son's company, and I 11:32:25
19 help out Mark Smith's company. 11:32:27

20 And I said to Jeff, Why don't you come to 11:32:30
21 Mark Smith? He makes shower pads and bathtubs, 11:32:33
22 and you could buy whatever you want from him, and 11:32:36
23 I think Mark is going to actually buy some wall 11:32:39
24 systems from Jeff. Or at least that's what both 11:32:42
25 of them told me. 11:32:45

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1	I've been going to -- about every two or	11:32:46
2	three weeks I go to Mark Smith's company called	11:32:49
3	Bath Maxx, and I hang out there for three or four	11:32:52
4	hours, and we just talk shop, because of -- we're	11:32:57
5	both tinkerers, and it's fun. I get a free	11:33:00
6	breakfast out of it.	11:33:04
7	Q Nothing wrong with that.	11:33:04
8	A Yes.	11:33:04
9	Q You had mentioned an agreement	11:33:07
10	regarding -- what did you say?	11:33:14
11	We started talking about working together	11:33:15
12	whereby he would take care of all the Canadian	11:33:17
13	things --	11:33:22
14	A Yeah.	11:33:22
15	Q -- and you would do the United States.	11:33:22
16	A Right.	11:33:24
17	Q What kind of products were you talking	11:33:24
18	about at that point in time?	11:33:26
19	A Bathtubs, walls, soap dishes, shower	11:33:29
20	caddies, things like that. And he had some	11:33:32
21	products that he made that I really liked but we	11:33:35
22	did not come to terms with.	11:33:38
23	I -- he made a bathtub that was very	11:33:41
24	unique, and he got it patented, I believe he said,	11:33:44
25	and it was called a two-piece walk-in tub, and	11:33:47

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1	it's for seniors. And the beauty of it is some of	11:33:50
2	those two piece -- some of those big walk-in tubs	11:33:54
3	don't go through a door.	11:33:55
4	What Jeff invented was a perfect seal in	11:33:57
5	the middle so that you could walk it in two pieces	11:34:00
6	both together.	11:34:03
7	I wanted to sell it. Jeff wanted a lot of	11:34:04
8	money. He wanted me to buy the rights for a	11:34:06
9	million bucks, and I wanted to give him a piece of	11:34:10
10	every tub, and we never came to an agreement on	11:34:13
11	that, because I just -- I wasn't going to sell	11:34:17
12	that many. It just wasn't going to be worth it.	11:34:19
13	Q And so was the idea, then, about the --	11:34:22
14	segmenting the U.S. and Canada, that both parties	11:34:24
15	would be selling the same products to their	11:34:27
16	respective country?	11:34:29
17	A That's what we were working toward.	11:34:31
18	That's what we were talking about.	11:34:34
19	And I wasn't the only one in that. The	11:34:34
20	lawyer, Mary, was also part of that, because I	11:34:38
21	said, you know, You work out the agreement with	11:34:40
22	I'm. But I thought with all the problems getting	11:34:42
23	things across the border, and all the costs, and	11:34:45
24	at that time -- the Canadian dollar goes up and	11:34:54
25	down a lot. Sometimes it's more than the US	11:34:58

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1	dollar, sometimes, like right now, it's less than	11:34:58
2	the US dollar, but it brought a consistent level,	11:34:59
3	and it was better for the customers.	11:35:01
4	Q And so would the customers have gotten the	11:35:03
5	same product, same brand name, same quality,	11:35:05
6	regardless of which one --	11:35:11
7	A I think he wanted -- I'm not sure. I	11:35:12
8	think he wanted to call it Milestone.	11:35:14
9	Q And I guess what I'm -- what I'm	11:35:14
10	ultimately --	11:35:14
11	A I didn't have a problem with that.	11:35:15
12	Q Where I'm ultimately going with this is:	11:35:17
13	Was there contemplated to be a sharing of	11:35:20
14	the way of doing something?	11:35:24
15	A Of helping distribution.	11:35:25
16	Q Okay.	11:35:25
17	A Because that's what it's all about. He's	11:35:26
18	already in Canada. He has all the licenses in	11:35:28
19	Canada. He's -- he's just over the border from	11:35:29
20	New York. You could ship it into Canada. He	11:35:33
21	could distribute it to his people.	11:35:37
22	Q Okay.	11:35:37
23	A I take care of the U.S., and I did not	11:35:38
24	have that many people at all in Canada. So it	11:35:40
25	wasn't a huge thing, all right? Bunch of little	11:35:43

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1	guys, and if he would have took them over, he	11:35:46
2	would have actually probably done me a favor.	11:35:49
3	I hate saying no to people but the costs	11:35:52
4	involved in making little orders, I was paying \$50	11:35:56
5	bucks for just a pallet and then banding it and	11:36:01
6	shipping it and filling in all the paperwork to	11:36:02
7	get it across the border. I'd rather just send	11:36:05
8	one truck and let him do it. There weren't enough	11:36:09
9	customers to be worth me hiring somebody to do	11:36:10
10	this full time for Canadian export. So it seemed	11:36:12
11	like the right thing to do at that time.	11:36:17
12	Q Did you have similar conversations with	11:36:19
13	any of your other distributors?	11:36:20
14	A No, they weren't in Canada.	11:36:22
15	Q So other than --	11:36:22
16	A I had no other distributors. I do --	11:36:26
17	Q Dealers, sorry. Let me ask that again.	11:36:32
18	A A dealer is somebody who buys it to	11:36:34
19	install it. A distributor is someone who buys it	11:36:37
20	to resell it.	11:36:40
21	Q Let me ask that question again.	11:36:40
22	A And Jeff did both.	11:36:42
23	Q So did you have similar conversations with	11:36:42
24	any of your other dealers about acting like a	11:36:45
25	distributor?	11:36:48

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1 A Well, many of them asked me if they 11:36:48
2 could -- you know, well, I could do California, or 11:36:50
3 I don't know. If it's in the U.S., I've got a lot 11:36:52
4 of good relationships with trucking companies, 11:36:56
5 really good discounts. They'll come, they'll pick 11:36:58
6 up everything, put it on FedEx and bring it to a 11:37:02
7 break point out in Vegas or Denver, and then 11:37:05
8 they'll break it up from there. 11:37:05

9 I don't need -- I don't have a problem 11:37:10
10 with distribution, so it wasn't worth my time, and 11:37:11
11 I did not want to give anybody else control of my 11:37:14
12 customers. So I often was asked, and often 11:37:16
13 immediately said, no, no, no, I don't work that 11:37:21
14 way. 11:37:24

15 Q Was there anything other than the fact 11:37:24
16 that Jeff was in Canada that made Jeff an 11:37:26
17 attractive option as a potential distributor? 11:37:29

18 A He was already a distributor. He was 11:37:32
19 distributing other products, and he was in Canada, 11:37:35
20 and I didn't have many people in Canada, and it 11:37:37
21 was the biggest guy I had in Canada. It just 11:37:40
22 worked. Or at least we tried to get it to work. 11:37:42
23 It just didn't happen. 11:37:45

24 But the truth is, I tell him all the time, 11:37:47
25 you know, I got a guy calling me. I didn't want 11:37:50

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1	him. Just pass the lead on.	11:37:52
2	Q Would you consider Jeff to be a technical	11:37:58
3	person?	11:38:00
4	A He is.	11:38:01
5	Q How do you know that?	11:38:01
6	A Well, he told me he had a degree in	11:38:02
7	engineering.	11:38:06
8	Q Have you ever had any technical	11:38:06
9	conversations with Jeff?	11:38:08
10	A I have technical conversations with	11:38:11
11	everyone. Every guy I go to wants to tell me what	11:38:13
12	needs to be done to make it better. That's what	11:38:17
13	you do when you visit a customer: What can I do	11:38:20
14	to make it better for you?	11:38:23
15	And Jeff, like everybody else, everybody	11:38:26
16	wants it packed a certain way. Wants it banded.	11:38:26
17	I only want A frames. I only want sheets with --	11:38:31
18	Jeff was specific about how his was packed,	11:38:35
19	because it was a long distance to Canada -- I also	11:38:38
20	had the same problem shipping to California,	11:38:40
21	especially if you were putting a shower glass door	11:38:42
22	on it, because glass, UPS and FedEx are not the	11:38:45
23	daintiest, and no matter how big of an orange sign	11:38:50
24	you put on it that said "Do Not Stack," that's	11:38:53
25	where they put the 300 -- 3,000-pound vice right	11:38:56

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1	on top of the glass door.	11:39:00
2	Eventually I just started shipping West	11:39:03
3	Coast glass doors made in the west coast	11:39:09
4	because...	11:39:09
5	There's -- running a business, you always	11:39:14
6	run into the technical stuff.	11:39:16
7	Q Is that kind of the tinkering that you	11:39:17
8	were referring to earlier today?	11:39:20
9	A Yes, yes.	11:39:21
10	Q Did you ever make any -- excuse me. Let	11:39:23
11	me try that again.	11:39:23
12	Did you ever make any changes to anything	11:39:23
13	that you were doing based on a suggestion from a	11:39:24
14	dealer?	11:39:31
15	A Well, let's take Jeff in particular.	11:39:31
16	I changed. I bought a machine that	11:39:34
17	wrapped his pallets the way he wanted them. He	11:39:36
18	came up with a suggestion, because we were using	11:39:39
19	metal banding at the time, and he wanted it a	11:39:41
20	different way, and I looked at it and I said, you	11:39:45
21	know, it's a good idea, I could wrap that, and,	11:39:48
22	you know, I just want it to get there safe.	11:39:51
23	If a customer wants something a certain	11:39:53
24	way, even if I don't like it, I'll probably do it.	11:39:56
25	Q Did you ever work on a screen printing	11:39:58

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1	project with Jeff?	11:40:02
2	A I worked on a screen printing project with	11:40:04
3	everybody in the country. Let me tell you about	11:40:06
4	the screen printing project.	11:40:09
5	When it was originally invented, it was a	11:40:11
6	machine called a Gravure process printer. I don't	11:40:15
7	know if you know about them, but enormous.	11:40:21
8	They're like a train. They could be a quarter	11:40:24
9	mile long and cost millions.	11:40:27
10	And to set it up to print, it has to print	11:40:29
11	this real long roll. There's minimum orders,	11:40:32
12	like, let's say I wanted a beige marble. They	11:40:42
13	wanted me to buy three rolls of 2,000 yards each,	11:40:46
14	so I might be out 180, \$200,000 for just that	11:40:50
15	color. It might take me three to four years to	11:40:53
16	use that color. It may -- I have to store that	11:40:56
17	color. And we wanted to have 15 colors, but we	11:41:00
18	didn't have the room or the money to buy that much	11:41:08
19	of the top layer that held the -- all of us.	11:41:10
20	And then we found out that one of our	11:41:14
21	competitors in Utah had a process where he was	11:41:17
22	using a printer, a big flatbed printer. And then	11:41:21
23	he put a clear layer over the top called PETG,	11:41:29
24	polyethylene glycol.	11:41:35
25	And what happened was the glue that he	11:41:37

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1	used in a hot situation, if it wasn't sealed with	11:41:40
2	caulk, would start peeling off.	11:41:43
3	Q Hot like the temperature of a shower?	11:41:45
4	A Temperature of a shower.	11:41:49
5	So all of us, BCI, Re-Bath, AmBath, Jeff,	11:41:50
6	me, we all started buying printers, large	11:41:55
7	printers.	11:42:01
8	I bought an old, used Canadian printer.	11:42:01
9	Forgot the name of it. I have a photo of it. But	11:42:05
10	it's pretty complex, computer driven, and you just	11:42:09
11	lay the sheet on it, and it would print whatever	11:42:12
12	you wanted. It could print the tile, it could	11:42:14
13	print a marble, it could print a granite.	11:42:17
14	I printed pictures of giraffes, I printed	11:42:20
15	pictures of -- some guy wanted a Green Bay logo,	11:42:22
16	and I said I can't to it. I can't print somebody	11:42:25
17	else's logo, and I didn't do it.	11:42:28
18	But by doing that, by figuring out a way	11:42:31
19	to print as needed, I no longer needed to buy huge	11:42:34
20	rolls at huge prices and store them.	11:42:37
21	But that wasn't the only thing.	11:42:40
22	For every single pattern we would have to	11:42:43
23	pay for three unique rolls at about 20, 30 or	11:42:46
24	\$50,000 a roll, because they all had to be a	11:42:51
25	different size in order to have a unique random	11:42:55

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1 pattern. So that the costs were enormous for 11:42:58
2 getting these patterns and storing these patterns. 11:43:02

3 So we all said, Wouldn't it be nice to 11:43:06
4 store them like a printer file? You throw a piece 11:43:09
5 of white sheet on it, a biscuit, you hit "print," 11:43:12
6 and it prints it. And then you'd have to put a 11:43:15
7 clear layer over the top. 11:43:17

8 Well, I tried, Jeff tried, everybody 11:43:19
9 tried, and I talked to everybody. As a matter of 11:43:21
10 fact, we all used -- and how that happened is we 11:43:23
11 all started finding out who the top of the line UV 11:43:25
12 printing companies were and who makes the UV 11:43:28
13 printing inks. 11:43:32

14 And we were all talking to the same 11:43:34
15 salesman, and the salesman would say, Oh, yeah, I 11:43:36
16 was just at your competitors's place, and he's 11:43:39
17 doing this, and he wants to buy this machine, but 11:43:42
18 if you bought this machine, it would be faster. 11:43:42

19 And I would say I'll buy any machine 11:43:44
20 that's faster, but first we got to prove -- you 11:43:49
21 got to prove the thing, so there was one 11:43:50
22 particular guy. He works for a really big -- I 11:43:52
23 forgot the name of the company. It's a huge 11:43:54
24 printing company out in New Hampshire. He's still 11:43:56
25 at it. 11:43:58

1	But we all looked at developing printers	11:43:59
2	that worked. Nobody came up with one that didn't	11:44:01
3	have a defect. Either the material would wipe	11:44:05
4	right off, the glue wouldn't stick, it would look	11:44:09
5	like shit.	11:44:12
6	Like, let's talk about the PETG. The	11:44:12
7	reason I didn't like that particular one, although	11:44:14
8	it's still for sale, the --	11:44:17
9	BY MR. HALVERSON:	11:44:19
10	Q Today?	11:44:20
11	A Today, yeah.	11:44:20
12	It's fuzzy. Whatever you print, the PETG	11:44:22
13	is an opaqueish. It isn't clear. I didn't like	11:44:28
14	it. My customers wanted crisp pattern, because I	11:44:33
15	don't want it to look like plastic.	11:44:37
16	So even though I dropped 30 grand, and I	11:44:38
17	hired a guy out of college who was a graphic	11:44:41
18	artist, and I think everybody else did, too, at	11:44:44
19	that time I wasn't totally best friends with the	11:44:48
20	guys at BCI, because we were competitors pretty	11:44:53
21	hard at that time. There are times we're good	11:44:56
22	friends and there are times we're not, you know	11:44:59
23	what I mean?	11:45:01
24	Q Sure.	11:45:02
25	A But anyhow, they would talk to me, I would	11:45:02

1 tell them what I was doing, they would tell me 11:45:07
2 what they were doing, because we thought printing, 11:45:09
3 this isn't going to be patentable. It's just 11:45:11
4 going to be an exciting way to streamline our 11:45:15
5 companies. 11:45:17

6 Q Did you make any changes to what you were 11:45:17
7 doing on the printing front based on the 11:45:20
8 conversations you had with BCI? 11:45:23

9 A No, they were doing it a different way. 11:45:24
10 They were really spending some top-of-the-line 11:45:25
11 money on some high-end equipment, whereas I got a 11:45:27
12 machine that used an old-fashioned solvent ink, 11:45:30
13 and I was not using the new latex inks. 11:45:34

14 And the reason for that is the latex inks 11:45:38
15 are actually a better, more vibrant ink, and 11:45:41
16 they're crisper and cleaner, but we're in the 11:45:41
17 business of thermoforming. 11:45:41

18 When you thermoform a latex ink, it would 11:45:49
19 crack, so if I had the letter A, let's say, and I 11:45:52
20 thermoformed it, it would crack, whereas if I used 11:45:55
21 the solvent ink, which is the sold style, mine 11:45:58
22 would stretch, but it would still be all one 11:46:02
23 letter. 11:46:06

24 Q Do either of those two -- 11:46:06

25 A So when I did a marble pattern, the marble 11:46:08

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1	would stretch, and you wouldn't even know, because	11:46:08
2	marble looks like that.	11:46:08
3	So I felt the old style, the older ink and	11:46:10
4	the older technology better suited what I was	11:46:13
5	trying to do, but I couldn't get it to work.	11:46:16
6	Q Did either of those two forms of ink	11:46:20
7	perform better on a routed-out grout line?	11:46:28
8	A We never got to that because we never got	11:46:31
9	it to stick. We never got -- the sheet that we	11:46:33
10	would have stuck in a router, we didn't get	11:46:35
11	that -- I didn't get that far, BCI didn't get that	11:46:36
12	far, Re-Bath didn't get that far.	11:46:38
13	Q Do you know, did anybody?	11:46:41
14	A Today there's still nobody I know of doing	11:46:42
15	that.	11:46:44
16	Q So is everybody using these preformed	11:46:44
17	acrylic sheets that you get from --	11:46:50
18	A Yes.	11:46:52
19	Q Okay.	11:46:53
20	A Yeah, you have to buy the rolls.	11:46:53
21	Now, what's changed in the industry is I	11:46:53
22	no longer have to pay for the rolls, and I no	11:46:57
23	long -- see, what we wanted was exclusiveness.	11:47:00
24	That nobody else had the pattern. The people that	11:47:03
25	make these sheets had stock patterns, but they	11:47:06

1 were available to anybody. 11:47:13

2 So I did not want all my competitors to 11:47:14
3 have the exact same thing I did. I wanted to say 11:47:16
4 to my people, these are unique patterns, and the 11:47:18
5 only way that they would give me the exclusive 11:47:23
6 rights to that pattern is if I bought the rolls 11:47:25
7 that made -- in Gravure process, and then I bought 11:47:28
8 three rolls, minimum order, and then stored them 11:47:32
9 at my -- the people that made the acrylic. They 11:47:34
10 would literally put it into the acrylic while the 11:47:39
11 acrylic was still mold. 11:47:43

12 Q So you would have to buy -- 11:47:43

13 A And send it to the people who made my 11:47:45
14 acrylic. 11:47:47

15 Q So you would buy the roll of pattern -- 11:47:48

16 A Yes, yes. 11:47:48

17 Q -- like the marble pattern, send it to, 11:47:49
18 for example, Senoplast. They store it at their 11:47:53
19 facility? 11:47:55

20 A We have to slow down. 11:47:55

21 Yes, yes. 11:47:58

22 Whoever was going to print, we would send 11:48:00
23 it there. We would pay for it from a company 11:48:02
24 called Omnova. They print for everybody, because 11:48:04
25 it's almost a monopoly. 11:48:09

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1	Right now, SparTek has their own company	11:48:12
2	that does it, too, but they're nowhere near the	11:48:15
3	size of Omnova.	11:48:19
4	Q Okay. I want to do something else with	11:48:21
5	another exhibit.	11:48:24
6	A But I want you to know, that's what I mean	11:48:24
7	by a tinkerer, you know what I mean? Trying to	11:48:28
8	figure out a way to streamline the business, and	11:48:32
9	we're all in that business.	11:48:34
10	MR. HALVERSON: Let's pause a second so we	11:48:45
11	can mark this. This could be marked as Exhibit --	11:48:46
12	THE WITNESS: Am I doing all right, guys?	11:48:46
13	Okay.	11:48:50
14	BY MR. HALVERSON:	11:48:50
15	Q As long as you're telling the --	11:48:51
16	A Yeah, I am. I'm telling it straight up.	11:48:52
17	Q As long as you're telling the truth.	11:48:53
18	(Domanico Exhibit 2 is introduced for the	11:48:55
19	record.)	11:48:55
20	BY MR. HALVERSON:	11:48:55
21	Q So you've been handed what has been marked	11:48:57
22	as Exhibit 2. Exhibit 2 is the provisional	11:48:58
23	application for the patent that issued as	11:49:03
24	Exhibit 1.	11:49:07
25	A Okay.	11:49:09

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1	Q Exhibit 2 does not have any Bates-stamped	11:49:10
2	numbers on it.	11:49:13
3	A Okay.	11:49:14
4	Q And it doesn't have page numbers on it.	11:49:14
5	A Okay.	11:49:17
6	Q So we're going to have to do some counting	11:49:17
7	to get to where we need to be.	11:49:19
8	First question: Have you ever seen	11:49:22
9	Exhibit 2 before?	11:49:24
10	A I believe so, yes.	11:49:25
11	Q And you're looking at the pictures --	11:49:27
12	A All the pictures I took with my camera,	11:49:29
13	gave it to Jody.	11:49:31
14	Q So that's where I want to start, with	11:49:32
15	those pictures.	11:49:35
16	A Okay.	11:49:36
17	Q And if you could go to the first page that	11:49:36
18	has pictures --	11:49:39
19	A Yeah.	11:49:40
20	Q -- I believe it's page 16 of the document.	11:49:41
21	A I'm here.	11:49:43
22	Q And it says, Existing Simulated Tile Wall	11:49:43
23	Process?	11:49:48
24	A Okay.	11:49:49
25	Q Is this the thermal molding --	11:49:50

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1	A Yes.	11:49:50
2	Q -- that we were talking about before?	11:49:51
3	A Take a look at that machine. You see the	11:49:52
4	metal that you see around the sheet? That is --	11:49:55
5	Q No, can you point it out to me?	11:49:57
6	A [Indicating] that is the clamp frame.	11:50:00
7	Q You're talking about the top right image	11:50:01
8	in the --	11:50:03
9	A Well, all of them you can see the clamp	11:50:03
10	frame.	11:50:06
11	Q Oh, I see.	11:50:06
12	A In any of them.	11:50:07
13	You see this thing [indicating]? This is	11:50:07
14	our own light machine.	11:50:09
15	What it does is it holds the sheet like	11:50:11
16	this on the edges, all four edges. We slide it	11:50:12
17	into the oven, I call it the pizza oven. You can	11:50:16
18	see the word "pizza" on it, and it heats the	11:50:21
19	sheet.	11:50:24
20	When it reaches a certain sag, it sets off	11:50:24
21	a trigger alarm that tells us it's time. We will	11:50:28
22	then pull the sheet like you see here in this	11:50:32
23	exhibit.	11:50:34
24	Q If you flip to the next page, do you see	11:50:34
25	the sag in the top left image?	11:50:43

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1	A	Okay. I'll agree with you there.	11:50:47
2	Q	So keep going, sorry.	11:50:50
3	A	These are -- what do you want me to see	11:50:51
4		about it?	11:50:53
5	Q	Is that the sag that you were referring	11:50:53
6		to?	11:50:56
7	A	Yeah, that's the sag.	11:50:56
8		It has to be thoroughly heated all the way	11:50:58
9		through.	11:51:00
10	Q	And then you place this heated acrylic	11:51:00
11		sheet over the top of the mold and vacuum out the	11:51:03
12		air?	11:51:06
13	A	That is correct. And if you look at the	11:51:06
14		next, you could actually see that we have a tile	11:51:12
15		look.	11:51:16
16	Q	And then at the bottom pictures we see	11:51:17
17		some people pulling off the scrap. Is that the	11:51:20
18		scrap that you were talking about before?	11:51:23
19	A	Yes, you have to cut that off and throw it	11:51:24
20		out.	11:51:28
21	Q	And so did you take these pictures?	11:51:28
22	A	Probably.	11:51:29
23	Q	Do you happen to know the name of the	11:51:30
24		gentleman in the middle, in the pictures, if you	11:51:32
25		go back to the prior page?	11:51:33

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1	A Yeah, I think I do.	11:51:35
2	Q The page that begins -- or has Existing	11:51:44
3	Simulated Tile Wall?	11:51:45
4	A These are so bad. I'm really not sure. I	11:51:46
5	could find out, if you really need to know. I	11:51:49
6	believe it's Edgar or one of his guys. Edgar was	11:51:49
7	my -- well, Edgar is the guy who's programming the	11:51:53
8	machine later.	11:51:57
9	Q So if you -- yeah, if you go to the page	11:51:58
10	that at the top says Appendix 5 of 9.	11:51:59
11	A Okay. Hang on. So you could see here's	11:52:03
12	this other giant roll. You could move the --	11:52:10
13	Q So there you go.	11:52:10
14	A That's Edgar.	11:52:11
15	Q That's Edgar there?	11:52:12
16	A Yeah.	11:52:13
17	Q And so this is -- is this the CNC machine?	11:52:14
18	A Yeah, that's the old head.	11:52:17
19	Q That's the German one?	11:52:19
20	A Yeah.	11:52:22
21	Q And so what is Edgar doing in this	11:52:23
22	picture?	11:52:25
23	A I can only guess. I mean, I see a hand on	11:52:25
24	a control panel. I can't read any of them. But	11:52:28
25	he was probably telling it where to start, getting	11:52:32

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1	it to its start point, and then he would press	11:52:34
2	"start," because he would already have loaded the	11:52:36
3	program.	11:52:38
4	Or if his hand was on the upper side, he	11:52:38
5	would tell it what program to load. It's like a	11:52:41
6	document you might have in -- stored in your Xerox	11:52:44
7	machine. You hit press, and it will print that	11:52:47
8	document. We stored a few in here.	11:52:50
9	Q So it stored favorites within the CNC	11:52:53
10	machine?	11:52:56
11	A Yes.	11:52:56
12	Q And then you push "go," and if you look at	11:52:57
13	the bottom picture on that same page, we see the	11:53:00
14	router head?	11:53:02
15	A Yes, and you'll notice the sheet is	11:53:03
16	significantly smaller.	11:53:06
17	Q Why is that?	11:53:07
18	A Because I didn't have to buy a giant sheet	11:53:07
19	and put it in a clamp frame and throw a lot of it	11:53:10
20	away, so there's significant savings in time,	11:53:13
21	didn't have to heat it, didn't have to buy all the	11:53:16
22	other stuff, and hardly any labor, because,	11:53:18
23	really, what did he do? He hit print. And that's	11:53:21
24	an amazing difference in the way it used to be.	11:53:24
25	Q Did you or Edgar have to make any changes	11:53:29

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1	to that German CNC machine?	11:53:35
2	A Well, we always had to -- any CNC machine	11:53:38
3	requires maintenance on an ongoing level.	11:53:43
4	Example: There's a particular type of	11:53:45
5	plywood that has a five-horsepower vacuum	11:53:51
6	underneath it so powerful that it would suck	11:53:54
7	through the plywood, because the plywood was made	11:53:57
8	of loosely formed particles of wood.	11:54:00
9	And it would hold that sheet in place with	11:54:04
10	the vacuum. And every now and then, through use,	11:54:06
11	we would have to resurface that to get level.	11:54:11
12	So that when we put this piece on top, and	11:54:18
13	then had the CNC, otherwise what would happen, is	11:54:22
14	as the router would go, you have valleys and	11:54:24
15	peaks. So in order to keep those valleys and	11:54:28
16	peaks perfect, this required the maintenance of	11:54:33
17	constantly -- and then, of course, you'd have to	11:54:33
18	oil things and clean them out. They threw a great	11:54:36
19	deal of dust. And you could see behind it there's	11:54:39
20	a large hose, because of -- we had a dust	11:54:41
21	collector behind it. But even with a dust	11:54:45
22	collector, you still get some dust in here.	11:54:49
23	Q And so is this, if you flip forward a	11:54:51
24	couple more pages, one more.	11:54:54
25	A Okay.	11:54:56

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1	Q One more again. Sorry?	11:55:02
2	A It's okay.	11:55:02
3	Q So that one at the top says Appendix 8 of	11:55:05
4	9, right?	11:55:07
5	A Yeah.	11:55:07
6	Q Is that the same German CNC machine?	11:55:08
7	A I only had one that could do this type of	11:55:11
8	work.	11:55:14
9	Q Okay. And so we see five bricks	11:55:14
10	laterally -- or five tiles laterally in this	11:55:24
11	image, right?	11:55:27
12	A One, two, three -- yes.	11:55:28
13	Q Approximately --	11:55:33
14	A Well, you don't count the little pieces on	11:55:33
15	the end.	11:55:36
16	Q Okay. So what I'm trying to figure out	11:55:36
17	is: How wide of a piece of acrylic can this	11:55:39
18	machine cut?	11:55:42
19	A I think it was 6 x 12 --	11:55:43
20	Q Okay.	11:55:43
21	A -- 6 x 10, 6 x 12.	11:55:45
22	I had no sheets that wide, so I never did.	11:55:47
23	So the sheet was -- it was always big enough. So	11:55:50
24	I bought it.	11:55:53
25	Q And that CNC --	11:55:55

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1	THE WITNESS: Am I slowing down? No,	11:55:55
2	seriously?	11:55:55
3	THE REPORTER: You're trying.	11:55:55
4	THE WITNESS: Okay. I got what the meant.	11:55:55
5	I'm too fast.	11:56:15
6	BY MR. HALVERSON:	11:56:15
7	Q That CNC machine, you could control the	11:56:16
8	depth of the routing bit; is that right?	11:56:21
9	A Yes. You could actually, with a big	11:56:22
10	enough block of anything, you could actually make	11:56:24
11	a statue.	11:56:26
12	Q I did that in shop class --	11:56:35
13	A See? And then you know.	11:56:38
14	Q As long as it was in the right --	11:56:39
15	A Yeah, exactly.	11:56:41
16	Q All right. And so do you have an	11:56:49
17	understanding of when those images were taken,	11:56:51
18	when those pictures were taken?	11:56:53
19	A Well, is there a date on when the	11:56:57
20	application was filed? Like I probably -- right	11:57:01
21	before then, because Jody used to call me all the	11:57:03
22	time and ask me questions.	11:57:07
23	Q So I don't want to get into specifics	11:57:08
24	about --	11:57:10
25	A No, I was just saying he asked me	11:57:11

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1	questions.	11:57:15
2	Q -- any of those conversations --	11:57:16
3	A Yes.	11:57:20
4	Q -- but what I do want to show you is, if	11:57:20
5	you go to the first page.	11:57:21
6	A The first page. Of photos? The first	11:57:23
7	page of what?	11:57:25
8	Q No, first page of Exhibit 2, the very	11:57:25
9	first page of the document.	11:57:26
10	A In the front?	11:57:27
11	Q Yeah.	11:57:28
12	A Okay.	11:57:28
13	Q If you look at the top left --	11:57:29
14	A Okay.	11:57:29
15	Q -- there's a box that says, Application	11:57:30
16	Number?	11:57:32
17	A Okay.	11:57:33
18	Q And then to the right of it there's a box	11:57:33
19	that says Filing or 371(c) Date. See that?	11:57:36
20	A I do.	11:57:42
21	Q So that 371 date is February 18th, 2015?	11:57:43
22	A Okay. So you know that these photos were	11:57:49
23	done before that.	11:57:50
24	Q Do you know how long before that?	11:57:50
25	A Quite a ways, because we worked on it for	11:57:52

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1	a while.	11:57:54
2	Q Approximately how long were you working on	11:57:55
3	it?	11:57:57
4	A I would guess, and it's a guess, I would	11:57:57
5	say nine months.	11:58:02
6	Q And if you stay on that front page --	11:58:02
7	A Uh-huh.	11:58:02
8	Q -- you scroll down. I guess you don't	11:58:04
9	have to scroll.	11:58:07
10	But if you look down, see where it says,	11:58:08
11	Applicants, there's a bold that's about the middle	11:58:12
12	of the page? Up, right, to your left? Yes, right	11:58:14
13	there. You see where it says Applicants?	11:58:17
14	A Yes.	11:58:19
15	Q Just below that it says, Power of	11:58:21
16	Attorney?	11:58:24
17	A Yes.	11:58:26
18	Q And it says Jody Factor?	11:58:27
19	A Yup.	11:58:27
20	Q And that's the Jody you were referring to	11:58:30
21	before?	11:58:30
22	A Yes, that's Jody. He's the guy.	11:58:30
23	Q And is Jody the lawyer?	11:58:30
24	A Yes, he's a patent attorney.	11:58:32
25	As a matter of fact, his company name is	11:58:34

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1	Intellectual Property Law. And he is up the	11:58:38
2	street from you, like a few blocks from you,	11:58:41
3	actually.	11:58:44
4	Q There's a few of us in town.	11:58:44
5	A No, what I'm saying, he personally is.	11:58:44
6	You could contact him. He lives in Naperville,	11:58:46
7	right by me, but he works here, downtown.	11:58:48
8	Q And so --	11:58:53
9	A 1237 Washington.	11:58:53
10	Q Do you recall approximately when you first	11:59:01
11	reached out to Jody about this idea?	11:59:04
12	And again, I don't -- I don't want to know	11:59:06
13	what you said or what he said back. Just, do you	11:59:07
14	recall the date?	11:59:10
15	A No. A date? I couldn't tell you what I	11:59:10
16	had for breakfast last week.	11:59:13
17	Matter of fact, I don't recall a date. I	11:59:15
18	mean, there's ways of finding out, but -- like	11:59:16
19	when did I write the first check to Jody, but I	11:59:18
20	don't have any of those records. The	11:59:21
21	company -- they're all gone by now.	11:59:24
22	Q Do you know if Jody is still a patent	11:59:25
23	lawyer in Chicago?	11:59:27
24	A He has a phone number here.	11:59:28
25	Q And so how did you come to the conclusion	11:59:42

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1	that you wanted to reach out to Jody?	11:59:44
2	A Well, eventually, after I thought that	11:59:46
3	this idea was going to work, I started asking	11:59:50
4	people, Hey, do you know a patent lawyer or how to	11:59:52
5	find one? And my lawyer at the time says, I'll	11:59:55
6	get you one. And he mentioned Jody's name. I	11:59:58
7	called Jody up --	12:00:01
8	Q So that's -- we're going to get	12:00:02
9	dangerously close to --	12:00:06
10	A No, we're won't. And I said, yeah, I need	12:00:07
11	a patent attorney. I have a patent I want to get	12:00:09
12	done, and he said Okay, and this is the fees and	12:00:10
13	this is how long it would take, and he had to run	12:00:12
14	some -- make sure nobody else had a similar	12:00:15
15	patent, and busy guy, tough to get ahold of a lot,	12:00:18
16	but eventually we got everything done. I --	12:00:21
17	that's not protected. That's --	12:00:26
18	Q All of that is good.	12:00:29
19	A I like to hire -- like I said, I like to	12:00:31
20	hire pros. I would not be able to do this by	12:00:35
21	myself.	12:00:39
22	Q So you said as soon as you -- you said,	12:00:48
23	Eventually, after I thought this idea was going to	12:00:49
24	work, you started asking people whether or not	12:00:52
25	they knew a patent lawyer?	12:00:54

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1	A Yes.	12:00:55
2	Q What was the inflection point for you	12:00:55
3	where the idea was going to work?	12:01:00
4	A When I actually made some sheets, and I	12:01:01
5	ran into some difficulties with the leveling and	12:01:06
6	some other technical things that made the sheets	12:01:08
7	look bad.	12:01:13
8	And I knew in order to get it right, I had	12:01:14
9	to be able to fix those things. That's when I	12:01:19
10	learned I had to plane the bottom down, because it	12:01:20
11	came originally with a -- with a metal pattern,	12:01:26
12	but being -- which wasn't quite even. Even if	12:01:29
13	it's off a tenth of an inch, you could see it in	12:01:32
14	the grout.	12:01:36
15	So once I figured out how to add the MDF	12:01:36
16	board, medium density fiberboard, okay. Mr. -- I	12:01:41
17	went to craft school for that, and it sucked 5	12:01:45
18	horsepower underneath it. It was totally level.	12:01:51
19	Then you have to level the machine so that	12:01:54
20	one end doesn't get deeper than the other, and	12:01:56
21	once I got it so that the sheet looked good --	12:02:01
22	remember, the whole thing is about looking good	12:02:03
23	for the customer, and I knew I was able to	12:02:06
24	deliver, then I decided I am going to patent this.	12:02:09
25	I started quickly. I didn't have everything in	12:02:17

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1	place, but I knew what I needed to do to complete	12:02:20
2	it. I also knew how big of a seller it would be,	12:02:24
3	so I pushed it hard right away.	12:02:27
4	My lawyer, Mary, said, Let's call It	12:02:28
5	Impressions. I said yeah, that's a good name.	12:02:30
6	We'll call it Impressions. So she came up with	12:02:33
7	the name. Girls have better design stuff, and she	12:02:35
8	came up with the name, so -- and that's how it	12:02:40
9	started.	12:02:42
10	So she ran the company, and I went on the	12:02:43
11	road and showed people my prototypes after I got	12:02:46
12	clearance from Jody, which -- and I told them, I	12:02:50
13	will be selling this soon.	12:02:57
14	I went out and showed a lot of people so	12:02:58
15	they could -- let's say you're Jeff or any dealer,	12:03:00
16	for that matter.	12:03:03
17	If were to show you a new product, any	12:03:04
18	product, it takes you a while to incorporate that	12:03:06
19	product into your offering. You have to change	12:03:10
20	your forms, you have to educate your salespeople,	12:03:12
21	you have to come up with pricing, you have to come	12:03:16
22	up places -- individual slots to store it.	12:03:19
23	So I felt that I knew it's going to take	12:03:22
24	me a few months to put all the pieces together, so	12:03:25
25	I felt I should go out and start telling people,	12:03:29

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1	because even if I was ready, I knew they wouldn't	12:03:31
2	be, so neither of us were ready. But my lawyer	12:03:38
3	said I can shut up until --	12:03:39
4	MR. REMUS: Just careful about disclosing	12:03:39
5	conversations you had with your lawyer.	12:03:41
6	THE WITNESS: He said I can go talk to	12:03:42
7	people. He wanted me to do that, too, first, and	12:03:44
8	that's fine.	12:03:47
9	And then once I was given the go-ahead, I	12:03:47
10	started to show people, because I knew it would	12:03:52
11	take them a while, like it does for any product.	12:03:53
12	Even if I don't add a product, I just	12:03:57
13	added a color, it still takes them a while to	12:04:00
14	change their sales forms and contracts, and all	12:04:02
15	the other things, price lists.	12:04:05
16	So I was going around telling everybody,	12:04:06
17	this is the up-and-coming thing. I should be live	12:04:09
18	with it within a few months.	12:04:11
19	BY MR. HALVERSON:	12:04:11
20	Q And do you remember when you first went	12:04:13
21	live with the product offering?	12:04:16
22	A No, I can't say the dates, but...	12:04:17
23	Q Let's see if we can --	12:04:18
24	A Probably too early, but because my guy	12:04:20
25	sent out some product that they shouldn't have.	12:04:23

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Conducted on November 29, 2023

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1	We were making a lot of product and shipping it	12:04:28
2	out as prototypes, and it -- it really wasn't	12:04:31
3	ready for prime time.	12:04:35
4	Q So I'm going to hand you another document	12:04:37
5	that will be marked as Exhibit 3.	12:04:40
6	(Domanico Exhibit 3 is introduced for the	12:04:51
7	record.)	12:04:54
8	BY MR. HALVERSON:	12:04:54
9	Q And Exhibit 3 has Bates number --	12:04:54
10	THE REPORTER: I'm sorry.	12:04:54
11	BY MR. HALVERSON:	12:04:54
12	Q Can you read me the smaller Bates number	12:04:57
13	at the bottom right corner of that? Not the	12:05:00
14	larger one, but the smaller one?	12:05:02
15	A MBP_000028.	12:05:04
16	Q Perfect.	12:05:12
17	A You good with that?	12:05:15
18	Q I'm good with that.	12:05:17
19	A Okay. This is the standard router bit,	12:05:19
20	quarter inch.	12:05:20
21	Q And so before we get into what it is, have	12:05:21
22	you seen this e-mail before?	12:05:24
23	A Yes.	12:05:24
24	Q And do you recognize your --	12:05:25
25	A I -- I just got this email, by the way.	12:05:26

Transcript of Mark Domanico
Conducted on November 29, 2023

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1	Q When?	12:05:33
2	A Today -- yesterday.	12:05:35
3	Q From whom?	12:05:35
4	A Him. I called him and asked, what's the	12:05:36
5	claim -- what's the claim he's making. And I	12:05:37
6	asked you if there was any documents you wanted to	12:05:39
7	send me, and I probably talked to you more than	12:05:42
8	him, but I talked to both of you pretty openly.	12:05:43
9	Q So you've seen this -- you saw this before	12:05:47
10	today?	12:05:49
11	A Right. I saw it yesterday.	12:05:49
12	Q And do you recall seeing it back in 2014?	12:05:52
13	A No. This -- this that you're looking at,	12:05:57
14	do you see how deep it is? Do you see the	12:06:00
15	straight up and down edges on the side of the wood	12:06:04
16	there?	12:06:06
17	Q Uh-huh.	12:06:06
18	A Now, that wouldn't work at all, because	12:06:07
19	you'd be cut by the direct right angles. The bit	12:06:10
20	I was using was a cutting bit to do the	12:06:15
21	prototypes. And indeed, it was leaving that type	12:06:19
22	of a pattern, which was terrible.	12:06:22
23	Jeff wrote me a letter, which I don't	12:06:30
24	have, but Jeff sent it to me, so I sent it. I	12:06:33
25	assume both of you got it, and it was a letter	12:06:34

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Conducted on November 29, 2023

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1 between Jeff and I where Jeff said that you should 12:06:36
2 use a rounded router bit. And I told Jeff I have 12:06:37
3 them on order. I actually ordered three different 12:06:41
4 bits, because my goal for the customers were some 12:06:44
5 tile looks better with an eighth inch or a quarter 12:06:47
6 inch or a 3/8. If you see real tile, there's 12:06:52
7 variance in the width of the tile. 12:06:56

8 So I didn't want just one bit to be 12:06:58
9 everything. So I had ordered, and I had to order 12:07:02
10 special collets to fit this bit into my own CNC, 12:07:05
11 because it was difficult to work with, out of 12:07:11
12 date. 12:07:13

13 But I had ordered -- and I told him that, 12:07:13
14 and you can see Jeff proved it to me by sending me 12:07:15
15 the letter. I said Jeff, I have the three -- I 12:07:19
16 have three of them ordered, so I already ordered 12:07:23
17 the bits that were rounded that would fit in my 12:07:24
18 machine. 12:07:26

19 And by the way, getting those was not 12:07:27
20 quick. Often happens that way, when you need 12:07:29
21 something now -- 12:07:33

22 Q Where did you order them from, do you 12:07:34
23 recall? 12:07:41

24 A Well, at first I went to -- I can't 12:07:41
25 remember the name. What's the big tool -- what's 12:07:46

Transcript of Mark Domanico
Conducted on November 29, 2023

105

1	the big tool shop that begins with a B? They're	12:07:48
2	all over Chicago. Berland's House of Tools.	12:07:50
3	And they carry all the American companies,	12:07:55
4	and they also carried Bosch, so I thought that	12:08:02
5	they would have what I was looking for. They did	12:08:07
6	not because their tools -- I have a special collet	12:08:09
7	that didn't -- so we ordered -- we, at that time,	12:08:13
8	were only using cutting bits, which are straight,	12:08:15
9	like drills, so I had to order from a tool	12:08:20
10	company.	12:08:24
11	And in my other business, it was very	12:08:25
12	common for me to order custom made bits,	12:08:33
13	especially where I was able to replace the blades,	12:08:35
14	because we wore them out cutting into imitation	12:08:38
15	marble, into solid surface. It was much harder	12:08:43
16	material.	12:08:47
17	So I might have used that company, because	12:08:47
18	I knew everybody there, and they knew me, and --	12:08:49
19	but I'm not sure. There are other companies that	12:08:51
20	make -- these are standard router bits, just had	12:08:54
21	to get the right three.	12:08:58
22	Q Do you remember when you placed that	12:09:00
23	order?	12:09:02
24	A Oh, come on. Five years ago? No, no.	12:09:03
25	Six years? I have no idea.	12:09:06

Transcript of Mark Domanico
Conducted on November 29, 2023

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1	Q Do you think you might have purchase	12:09:07
2	orders for that order?	12:09:12
3	A I don't. When I left, you know, I took	12:09:17
4	nothing with me. I mean, I didn't own any of the	12:09:20
5	documents to the company. I asked Scott, I said,	12:09:23
6	Do you have any files that you could look through?	12:09:31
7	Because I have nothing. You know, I got new	12:09:34
8	computers three times since then, and I --	12:09:39
9	Q What did -- sorry. What did Scott say?	12:09:41
10	A He said he'd have somebody look into it.	12:09:43
11	He said, We got a couple files upstairs, but they	12:09:46
12	ended up all being financial.	12:09:50
13	I don't know. Maybe he's got the	12:09:52
14	checkbook from that year. I don't know. But it's	12:09:53
15	a company that makes router bits. And that could	12:09:55
16	tell you the date.	12:10:00
17	Q And who is Scott, just for the record?	12:10:00
18	A Scott Rosenbach who owns BCI, because he	12:10:02
19	bought the company with all the records, because	12:10:06
20	he bought all the customers. He would have the	12:10:08
21	documents.	12:10:10
22	Q And that was the purchase that was	12:10:10
23	completed in 2016ish?	12:10:12
24	A Yeah. Ish.	12:10:17
25	Q Ish.	12:10:19

Transcript of Mark Domanico
Conducted on November 29, 2023

107

1	A "Ish" is a good word.	12:10:23
2	Q And so in the "to" line of this email,	12:10:29
3	Exhibit 3, we see a Mary, and then we see	12:10:32
4	md@luxurybathinc.com. See that?	12:10:37
5	A That's me, yeah.	12:10:39
6	Q You're MD?	12:10:40
7	A I'm MD.	12:10:42
8	Q And is that the same Mary that we were	12:10:42
9	talking about --	12:10:45
10	A Mary Riordan, the lawyer.	12:10:45
11	Q And so with the understanding that this	12:10:48
12	email is dated November 2014, does that jog any	12:10:50
13	memory about when you would have been working with	12:10:55
14	the German router to perform the initial routing	12:10:59
15	into this acrylic?	12:11:06
16	A Oh, that would have been working way	12:11:08
17	before we got to here, playing with it, to try to	12:11:10
18	get it to work. Like I said, the first couple	12:11:15
19	sheets just were not up to snuff.	12:11:18
20	Q Do you think the first couple sheets would	12:11:21
21	have been in 2013, if this was November 2014?	12:11:23
22	A November. No, it was probably -- right,	12:11:28
23	probably early '14, maybe before. I really am not	12:11:32
24	good with dates.	12:11:36
25	Q That's okay.	12:11:37

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108

1	A Yeah.	12:11:38
2	Q Can you go back to Exhibit 2 for me, the	12:11:42
3	one with the pictures. The provisional file	12:11:44
4	history.	12:11:47
5	No. The other -- yes, that guy.	12:11:48
6	And --	12:11:52
7	A Where do you want me to go?	12:11:52
8	Q Oh, about 15 pages in.	12:11:56
9	A Okay.	12:11:59
10	Q Less than that. 13 pages in.	12:12:00
11	A Okay. What am I looking for?	12:12:03
12	Q Page that begins up at the top, it says,	12:12:05
13	Title of the Invention, written in -- it's further	12:12:08
14	than that. I think one more.	12:12:11
15	A Okay.	12:12:20
16	Q Do you see that?	12:12:21
17	A Yes.	12:12:21
18	Q Have you ever seen the text that's in this	12:12:22
19	page and the next page before, to the best of your	12:12:27
20	recollection?	12:12:32
21	A Knowing me, absolutely. I wouldn't let	12:12:32
22	anything go out without me looking at it first,	12:12:35
23	because that's what you got to do as CEO. The	12:12:38
24	amount of mistakes my guys would make, and you got	12:12:41
25	to know what's going on.	12:12:44

Transcript of Mark Domanico
Conducted on November 29, 2023

109

1	Q And so what is your understanding of	12:12:46
2	what --	12:12:53
3	A This sounds like what I just told you.	12:12:54
4	Almost word for word, I must have dictated.	12:12:56
5	Q What is your understanding of what was	12:12:59
6	being described in this document, the thing that	12:13:01
7	you're looking at right now?	12:13:04
8	MR. REMUS: Objection to form.	12:13:09
9	THE WITNESS: This is pretty damned near	12:13:34
10	what I told you word for word.	12:13:36
11	How to make a customizable sheet, and why	12:13:39
12	we decided to make a customizable sheet because of	12:13:41
13	the cost of making it the old way.	12:13:45
14	BY MR. HALVERSON:	12:13:47
15	Q And so if you look at what you have in	12:13:47
16	your hand right now, and then you look at what is	12:13:49
17	Exhibit 1, there are some things that are the	12:13:54
18	same.	12:13:56
19	There are some things that are in	12:13:56
20	Exhibit 1 that are not in Exhibit 2, and some	12:13:58
21	things in Exhibit 2 that are not in Exhibit 1.	12:14:01
22	A Okay.	12:14:03
23	Q And so do -- were you at all involved in	12:14:04
24	the decision of what to include in Exhibit 1	12:14:07
25	versus what's in Exhibit 2?	12:14:11

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Conducted on November 29, 2023

110

1	A	Let me read it. You mean the claims?	12:14:16
2	Q	The claims -- so you could compare the	12:14:22
3		claims of Exhibit 1 to the claims of Exhibit 2, or	12:14:24
4		the text of Exhibit 1 to the text of Exhibit 2, or	12:14:27
5		the figures between the two as well.	12:14:29
6	A	Well, the heading here says the	12:14:31
7		background --	12:14:33
8	Q	Uh-huh.	12:14:34
9	A	-- on why we wanted to make it. This is	12:14:34
10		how we make it [indicating]. So they're	12:14:37
11		different, a little, but there are crossovers.	12:14:41
12	Q	But is there a background in Exhibit 1, so	12:14:42
13		if you --	12:14:46
14	A	I have to read the whole thing -- oh,	12:14:47
15		Exhibit 1. I don't know. I didn't read the whole	12:14:48
16		thing. You want me to read it?	12:14:49
17	Q	Yeah.	12:14:52
18	THE REPORTER:	May we go off the record	12:14:55
19		for a moment?	12:14:57
20	MR. HALVERSON:	Sure.	12:14:58
21	THE VIDEOGRAPHER:	We are going off the	12:14:59
22		record. The time is 12:15.	12:15:00
23		(Recess taken.)	12:16:02
24	THE VIDEOGRAPHER:	We are back on the	12:19:19
25		record. The time is 12:19 p.m.	12:19:29

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111

1 BY MR. HALVERSON:

12:19:31

2 Q So if you want to or need to read anymore,
3 by all means go ahead but my question is:

12:19:31

12:19:34

4 Were you at all involved in the decision
5 of what to include in Exhibit 1, the patent,
6 versus what is included in Exhibit 2, the
7 provisional?

12:19:37

12:19:38

12:19:42

12:19:46

8 A Both of these documents are very well
9 written on exactly what it is that we do. And I
10 had to explain all that to my lawyer, so that he
11 could make the patent, and I also had Jody explain
12 it back to me, so I knew he understood. Because I
13 wanted this to be a waterproof patent.

12:19:48

12:19:53

12:19:57

12:20:02

12:20:05

12:20:08

14 So I had another patent, as I told you
15 previously, that I had to take to court, and I
16 learned that sometimes even the smallest of
17 details can screw things up, sorry about that, so
18 I wanted to be sure he did it right. So yeah, I
19 was involved.

12:20:15

12:20:18

12:20:23

12:20:24

12:20:26

12:20:29

20 Q So the reason I ask is, and feel free to
21 look at either document and correct me if you feel
22 otherwise, but if you look at Exhibit 1, the
23 patent, and if you look at column 2, so if you go
24 back one page.

12:20:29

12:20:33

12:20:37

12:20:39

12:20:44

25 A Okay. The page I just read? Yeah, go

12:20:45

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1	ahead.	12:20:47
2	Q And toward the bottom of Column 2.	12:20:47
3	A Yeah.	12:20:50
4	Q And we refer to line numbers, using the	12:20:50
5	line --	12:20:52
6	A Yeah, sure.	12:20:52
7	Q -- so at about line 63, there's a sentence	12:20:54
8	that says, The amount of material removed from the	12:20:56
9	sheet 13 --	12:20:59
10	A I don't have a 63. I have a 60 and a 65.	12:21:00
11	Q So you've got to count between them.	12:21:04
12	A Oh, that's what they are? Okay. I see, I	12:21:06
13	got it. I thought it was like a Bible. Okay.	12:21:09
14	Got it. 61, 62, 63.	12:21:11
15	Q It's actually 62, I miscounted, but	12:21:15
16	there's a sentence that begins --	12:21:18
17	A Simulated tile.	12:21:19
18	Q The amount of material removed from the	12:21:20
19	sheet 13 is relatively small, generally in the	12:21:23
20	order of point -- excuse me, of 0.005 inches.	12:21:25
21	Do you see that?	12:21:25
22	A Yeah.	12:21:37
23	Q So, I didn't see anything like that in the	12:21:37
24	provisional, Exhibit 2, and I was wondering if	12:21:40
25	there was a reason that that now came to light	12:21:45

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113

1	for --	12:21:46
2	A Yeah.	12:21:46
3	Q -- this other one.	12:21:46
4	MR. REMUS: Objection to form.	12:21:47
5	You can answer the question.	12:21:48
6	THE WITNESS: Okay. Generally, by	12:21:53
7	adjusting the height or the depth, you can make a	12:21:54
8	wider bit. You can make a wider grout line.	12:21:59
9	BY MR. HALVERSON:	12:22:02
10	Q Uh-huh.	12:22:03
11	A So it's not always set exactly there if	12:22:03
12	somebody wanted a different bit.	12:22:05
13	Q And that's because the router bit is --	12:22:07
14	A Yes.	12:22:10
15	Q -- curved in kind of a very shallow	12:22:11
16	U-shape?	12:22:14
17	A Yeah.	12:22:15
18	Q Right?	12:22:15
19	A I eventually ended up -- even though I	12:22:15
20	thought I would use three different bits, I ended	12:22:19
21	up with one roundish bit that I varied the depth	12:22:21
22	on in order to make the width slightly different.	12:22:25
23	But almost everybody ordered the -- I	12:22:31
24	really didn't understand that the customer always	12:22:34
25	bought what they saw, and because all of my	12:22:38

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1	samples that I sent out was a quarter inch wide,	12:22:43
2	very rarely did somebody want a wider or	12:22:46
3	shallower, so pretty much that was the bit that	12:22:51
4	people wanted, and that's what we did. And that's	12:22:53
5	because the clear sheet on top was .003.	12:22:57
6	So I just needed to go under -- into it a	12:23:00
7	little bit to get to the next level, so that I was	12:23:04
8	showing the rougher second layer of acrylic, and	12:23:09
9	getting through the top clear layer.	12:23:12
10	Q And so --	12:23:14
11	A And we often went a little deeper.	12:23:15
12	Q Is there any description in Exhibit 2,	12:23:19
13	that provisional, about the depth of the bit?	12:23:21
14	MR. REMUS: Objection to form.	12:23:25
15	THE WITNESS: I -- no, I didn't read it,	12:23:30
16	but I doubt that there is, because like I just	12:23:32
17	said to you, we pretty much kept it about a	12:23:34
18	quarter inch wide the whole time. That's what	12:23:37
19	everybody really wanted.	12:23:40
20	BY MR. HALVERSON:	12:23:41
21	Q And can you go to the next page of	12:23:41
22	Exhibit 1, the patent, and I want to look at the	12:23:43
23	very top of Column 3.	12:23:45
24	A Sure.	12:23:47
25	Q And then line one, the first sentence	12:23:47

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115

1	there begins, "the router bit." See that?	12:23:49
2	A Okay, yeah.	12:23:53
3	Q So here it's talking about that same	12:23:54
4	concept, right, the kind of shallow U-shaped	12:23:57
5	rounded edge that gets cut out?	12:24:02
6	A Yeah.	12:24:04
7	Q And same question about what's in	12:24:05
8	Exhibit 2, the provisional.	12:24:09
9	A Yeah.	12:24:11
10	Q Is there anything in there that you saw	12:24:11
11	about the rounded edges being grout -- or being	12:24:14
12	routed out?	12:24:20
13	MR. REMUS: Objection, form.	12:24:20
14	THE WITNESS: What does that mean? Can I	12:24:21
15	ask?	12:24:23
16	BY MR. HALVERSON:	12:24:23
17	Q Yes.	12:24:24
18	MR. REMUS: We can talk later, but my	12:24:24
19	objection is noted for the record, but you can	12:24:26
20	answer the question.	12:24:28
21	BY MR. HALVERSON:	12:24:29
22	Q Oh, sorry. Was your question about what	12:24:30
23	does it mean, what his objection is or about my --	12:24:32
24	A Yeah, what does it mean?	12:24:33
25	Q He'll talk to you about that.	12:24:36

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1	MR. REMUS: He's going to tell you to	12:24:38
2	ignore me.	12:24:39
3	THE WITNESS: Okay. Oh, okay. Ask the	12:24:40
4	question again.	12:24:42
5	BY MR. HALVERSON:	12:24:43
6	Q Let me ask the question again.	12:24:43
7	A You want me to look something up in here?	12:24:44
8	Q So I just want to know if there's anything	12:24:46
9	in the provisional about a rounded edge of grout	12:24:48
10	being routed out. Excuse me, that was not --	12:24:52
11	A You tell me.	12:24:57
12	Q I didn't see it, and I'm wondering if I	12:24:58
13	missed it.	12:25:01
14	A I didn't see it either, but here's what	12:25:24
15	you need to know:	12:25:26
16	Like I said, this whole patent is about	12:25:28
17	cutting through and giving the tile look, and so I	12:25:30
18	take it it would be understood that you have to	12:25:34
19	cut through the top.	12:25:36
20	Q Were you involved at all in the	12:25:37
21	prosecution of the claims that ultimately issued?	12:25:40
22	And let me know if you want me to explain any of	12:25:46
23	that.	12:25:48
24	A What does "prosecution" mean?	12:25:48
25	Q So, as a patent application is filed --	12:25:51

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117

1	A Okay.	12:25:53
2	Q -- you take your documents, you give it to	12:25:54
3	the Patent Office.	12:25:56
4	A Yeah.	12:25:56
5	Q Patent Office looks at it and makes some	12:25:56
6	sort of determination about whether or not the	12:26:00
7	claims, as filed, should be allowed.	12:26:01
8	If they say yes, you get what's called a	12:26:03
9	Notice of Allowance. If they say no, you get a	12:26:05
10	rejection. And then you go back and forth with	12:26:11
11	the Patent Office.	12:26:14
12	A I don't know. Jody was doing something	12:26:15
13	along that. I don't know how to format legalese.	12:26:17
14	Which is why you have a lawyer. But having read	12:26:21
15	this, you know, that's damn near what I told them	12:26:24
16	word for word, but he had to add legalese and	12:26:27
17	numbers and everything else, but that's pretty	12:26:30
18	much what I told him. I mean, these two documents	12:26:32
19	contain everything I told them, and everything	12:26:35
20	I've said here so far.	12:26:37
21	Q And so I'm going to hand you 4 and 5.	12:26:39
22	(Domanico Exhibit 4 is introduced for the	12:27:06
23	record.)	12:27:09
24	(Domanico Exhibit 5 is introduced for the	12:27:09
25	record.)	12:27:12

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118

1	MR. HALVERSON: 4. 5.	12:27:12
2	BY MR. HALVERSON:	12:27:16
3	Q I will hand you, Mr. Domanico, Exhibit 4,	12:27:16
4	which for the record is the prosecution history of	12:27:20
5	the patent at issue in Exhibit 1.	12:27:23
6	And I will also hand you Exhibit 5, which	12:27:28
7	is the assignment that you signed for that patent.	12:27:30
8	The assignment has been produced, and has	12:27:35
9	Bates number BCI00000014 through 17.	12:27:37
10	The prosecution history has not been	12:27:47
11	produced, so like the provisional, we're going to	12:27:51
12	have to count some pages?	12:27:55
13	A Okay.	12:27:55
14	Q I did that already to where I want to go,	12:27:57
15	so there's a red flag that's been added to it.	12:27:58
16	A Okay.	12:27:58
17	Q Starting with Exhibit 5, which is the	12:28:02
18	assignment.	12:28:04
19	A Got it.	12:28:04
20	Q Can you tell me the date that you executed	12:28:05
21	that assignment?	12:28:07
22	A It says February 17th, '16.	12:28:08
23	Q And if go you to the last page, do you see	12:28:11
24	your signature?	12:28:14
25	A Hell, yeah.	12:28:19

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1	Q Is that your signature?	12:28:20
2	A That's me.	12:28:22
3	Q And what is that date?	12:28:22
4	A Same.	12:28:25
5	Q Beautiful. Do you remember signing that?	12:28:28
6	A Probably not.	12:28:32
7	Q Seeing that date --	12:28:33
8	A Because I signed, you know --	12:28:35
9	Q -- and --	12:28:36
10	A -- a lot -- like so many things every day.	12:28:38
11	Q Seeing that date, and with the	12:28:40
12	understanding that that is an assignment of the	12:28:43
13	patent rights from you to Luxury Bath Liners, does	12:28:45
14	that give you any understanding of when the	12:28:54
15	transaction with BCI might have happened?	12:28:56
16	A No, I'm still -- it's a date to me. It's	12:29:03
17	a date way back when.	12:29:10
18	Q And so --	12:29:10
19	A It's probably in the range of when all	12:29:11
20	that happened.	12:29:15
21	Q If we go to --	12:29:16
22	A Because I did assign the date in the	12:29:18
23	document.	12:29:20
24	Q If you go to the trial history and you	12:29:20
25	open up at that red flag --	12:29:22

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1	A Okay.	12:29:24
2	Q -- and I will represent, for the record,	12:29:24
3	that the red flag is the -- can you go back one	12:29:25
4	page to the cover there?	12:29:28
5	A Okay.	12:29:30
6	Q That red flag is on the response to the	12:29:31
7	Office Action -- excuse me.	12:29:34
8	The response to the only Office Action in	12:29:37
9	the prosecution history?	12:29:39
10	A Okay.	12:29:40
11	Q And so as we were talking a minute ago	12:29:42
12	about prosecution, there are these rejections and	12:29:44
13	responses.	12:29:52
14	A Okay.	12:29:53
15	Q This is the response that was filed in the	12:29:53
16	prosecution of this application.	12:29:55
17	A Okay.	12:29:56
18	Q If you look forward a couple of pages, and	12:29:57
19	by "couple," I mean, like, 12.	12:30:00
20	A Okay. What should it say at the top?	12:30:04
21	Q Actually, at the bottom it will say 11.	12:30:07
22	A It will say what?	12:30:10
23	Q Eleven, so there's page numbers at the	12:30:11
24	bottom there. You see them?	12:30:13
25	A Come on. This isn't easy.	12:30:14

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1	Q If it was easy, the lawyers would do it.	12:30:19
2	A I don't know about that. Being a lawyer	12:30:21
3	is not the easiest job in the world.	12:30:24
4	Okay.	12:30:27
5	Q Have you ever talked with Mr. Samlan?	12:30:28
6	Just yes or no.	12:30:36
7	A Yes, yes.	12:30:36
8	Q Were you at all involved in the	12:30:37
9	preparation of the response that you just flipped	12:30:38
10	through, from the red flag to page 11?	12:30:41
11	A No.	12:30:45
12	Q Were you involved at all with BCI as of	12:30:51
13	June --	12:30:57
14	A Hang on. Okay. Go ahead.	12:31:02
15	Q Were you involved at all with BCI as of	12:31:03
16	June 4th, 2018, which is the date of this	12:31:06
17	response?	12:31:08
18	A Oh, yes.	12:31:08
19	Q What was your role at BCI then?	12:31:09
20	A After they bought out the company, they	12:31:15
21	wanted me to work for them for a few years so that	12:31:17
22	the customers felt that they had somebody they	12:31:20
23	could talk to if they needed something.	12:31:26
24	So for two years I worked there, and	12:31:29
25	pointed the customers to the appropriate people so	12:31:31

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1	they would get used to the appropriate people.	12:31:33
2	And I also did some sales for them to	12:31:36
3	military bases and things like that --	12:31:38
4	Q Can you go back to --	12:31:40
5	A -- universities, yeah.	12:31:41
6	Q -- to the page that has a 2 on the bottom	12:31:44
7	of it there?	12:31:47
8	A How far back?	12:31:48
9	Q Nine pages, ten pages, just before the	12:31:49
10	red -- or just after the red flag?	12:31:52
11	A Five, four, three, two, okay.	12:31:54
12	Q So in the process of prosecution of	12:31:59
13	patents, sometimes you make changes to those	12:32:01
14	claims.	12:32:03
15	A Okay.	12:32:04
16	Q Changes are made by either striking	12:32:05
17	through text to remove text from a claim, or	12:32:07
18	underlining new text to add new text to the claim.	12:32:11
19	A Okay.	12:32:15
20	Q So if you look at that page there, page 2	12:32:15
21	of this Office Action response, you see some	12:32:18
22	underlined text --	12:32:21
23	A Um-hmm.	12:32:23
24	Q -- and some struck-through text.	12:32:23
25	A And -- yes, I do.	12:32:25

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1	Q	Were you involved at all in the decision	12:32:26
2		of what text to strike through or what text to	12:32:28
3		underline?	12:32:31
4	A	Can I read this?	12:32:31
5	Q	Yeah.	12:32:33
6	A	Okay. I would obviously had to have been	12:33:11
7		involved at some point, because this is basically	12:33:17
8		the whole idea that I had.	12:33:20
9		Now, did I write it word for word and did	12:33:22
10		I type it? No, but at this point we had -- I had	12:33:24
11		verbalized it so many times to so many people that	12:33:27
12		everybody understood what we were doing.	12:33:31
13		So, I didn't write this, but these are	12:33:33
14		kind of my words that I've been using all along,	12:33:35
15		even today.	12:33:38
16	Q	So if you look at the first letter under	12:33:47
17		the number 1 there, where it says A?	12:33:50
18	A	Yeah.	12:33:52
19	Q	Where it says determined -- "determining,"	12:33:53
20		excuse me.	12:33:55
21	A	Okay.	12:33:56
22	Q	You see there is a deletion or a striking	12:33:56
23		through of the word "designing" --	12:34:00
24	A	Okay.	12:34:01
25	Q	-- and an underlining of the word	12:34:01

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1	"determining"?	12:34:03
2	A Okay.	12:34:04
3	Q Do those two words mean anything different	12:34:04
4	in your mind?	12:34:10
5	MR. REMUS: Objection -- I'm concerned --	12:34:11
6	THE WITNESS: Yeah.	12:34:11
7	MR. REMUS: Hold on. I'm concerned that	12:34:14
8	we are getting outside the scope of the limited	12:34:16
9	discovery that the judge ordered, which is only on	12:34:19
10	standing and inventorship, and you're now asking	12:34:21
11	him about the meaning of claim terms.	12:34:23
12	Can you help me understand where we are	12:34:25
13	going with this, if you think it relates to	12:34:27
14	inventorship?	12:34:29
15	MR. HALVERSON: In part, regarding the	12:34:31
16	scope of the claims that are at issue, which is	12:34:33
17	relevant to what it was that was invented. And	12:34:36
18	then in part, I'm not confident that we are going	12:34:39
19	to get Mr. Domanico a second time, and so I'm	12:34:42
20	happy to not go into those things that would be	12:34:45
21	beyond the scope of what is part of the noticed	12:34:48
22	deposition, if there's a representation that he'll	12:34:50
23	be available again.	12:34:53
24	MR. REMUS: I don't control the witness,	12:34:55
25	so I can't represent whether or not he will or	12:34:56

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1	won't be available again.	12:34:59
2	I do want to confine this deposition to	12:35:01
3	the scope of the discovery ordered by the Court.	12:35:03
4	So what I'm requesting is that we confine	12:35:07
5	the discussion to just issues of inventorship and	12:35:10
6	not issues of claim meaning, claim construction	12:35:12
7	and the like.	12:35:16
8	MR. HALVERSON: Okay.	12:35:18
9	THE WITNESS: May I say that both of you	12:35:19
10	or both of your people that hired you had offered	12:35:21
11	to have you represent and you represent me, and I	12:35:25
12	told both of them no, because I need to be -- I'm	12:35:28
13	just going to say what I'm going to say, because	12:35:32
14	that's what I'm -- I had a discussion with both of	12:35:35
15	you on this thing. I don't want representation.	12:35:37
16	You represent your client, you represent your	12:35:39
17	client. I'm just going to tell you what I know.	12:35:42
18	BY MR. HALVERSON:	12:35:44
19	Q Sounds good.	12:35:44
20	A Okay.	12:35:45
21	No, there's no differences in this case	12:35:49
22	between "design" and "determine." You know	12:35:51
23	obviously, I just wanted a tile wall. I just --	12:35:53
24	you call it design.	12:35:55
25	Q And so --	12:35:59

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1	A	You'd probably get more money for design	12:36:00
2		than you could if you determine but...	12:36:02
3	Q	If you go down, and you see where there's	12:36:05
4		a strike-through B and an underlined C right next	12:36:07
5		to each other --	12:36:10
6	A	Oh, yeah.	12:36:10
7	Q	-- and the word is "selecting"?	12:36:11
8	A	Yeah.	12:36:11
9	Q	What is your understanding of what it	12:36:14
10		means to select a first sheet of acrylic material	12:36:16
11		based on the first set of tile pattern	12:36:20
12		characteristics?	12:36:23
13	MR. REMUS:	Objection, outside the scope	12:36:26
14		of discovery allowed by the Court, and calls for a	12:36:27
15		legal conclusion. You can answer the question, if	12:36:30
16		you're able to.	12:36:39
17	THE WITNESS:	Well, obviously you got to	12:36:40
18		select the right size sheet for the program or you	12:36:41
19		waste a lot of material.	12:36:44
20	BY MR. HALVERSON:		12:36:45
21	Q	What do you mean by that?	12:36:46
22	A	At first, I wasn't designing a whole	12:36:47
23		sheet. I was just wanting to see if I could make	12:36:56
24		a real good tile look, so I was using smaller	12:37:00
25		sheets and scrap sheets, just proving that it	12:37:00

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1	works, because I was paying \$150 for a big sheet.	12:37:01
2	So at first, I just used other sheets. I	12:37:05
3	didn't use production sheets that I would resell	12:37:11
4	later. I picked sheets that would have different	12:37:13
5	colors, different tops, but they were expendable,	12:37:15
6	because of whatever, usually size.	12:37:20
7	Q So if there was a scrap sheet that was --	12:37:23
8	A That would do fine.	12:37:24
9	Q -- 3 x 2 -- excuse me --	12:37:26
10	A Well, usually I would cut a sheet to fit	12:37:27
11	exactly what the customer would want, and then I'd	12:37:30
12	have the remainder, although I guess you could	12:37:33
13	call it a scrap sheet, I would still save it,	12:37:35
14	because it was still useful in some way.	12:37:39
15	So I would pick the sheets that I needed	12:37:40
16	so I would know how it would look on a beige	12:37:43
17	marble, or what was the one that -- Carrara.	12:37:47
18	Carrara is a really good example, because	12:37:50
19	a Carrara has a very fine grayish streak through a	12:37:52
20	block, and how would that look?	12:37:56
21	And then I have dark colors. There were	12:37:58
22	dark browns, so selecting the sheets, testing it	12:38:01
23	so you could look at the finished results, I had	12:38:04
24	to do that a bunch, just to say, you know, this is	12:38:08
25	going to work for all my products, and it	12:38:11

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1 certainly did. As long as I cut through the top 12:38:16
2 layer, it would work perfect. 12:38:18

3 Q So all of the designs that you had worked 12:38:20
4 for all of the sheets that you had? 12:38:23

5 A No. There is a particular type of acrylic 12:38:28
6 that I also carried that was a very different type 12:38:30
7 of acrylic. It was a very expensive, high-end 12:38:34
8 monolithic sheet made by Lucite, and it had 12:38:38
9 marbling all throughout the sheet. It was hot tub 12:38:41
10 material. So even if I took a little dent into it 12:38:45
11 to make the tile look any -- look like tile, you'd 12:38:49
12 still see the pattern carrying through where 12:38:52
13 supposedly the grout line was, and because it was 12:38:55
14 monolithic, you'd see all I did was cut a pattern 12:38:57
15 into a sheet of acrylic with a pattern throughout 12:39:01
16 the whole thing, and it looked terrible. It 12:39:03
17 looked just like the ones I was sucking down, only 12:39:07
18 worse. So -- and it was a very difficult and 12:39:11
19 expensive sheet to work with. 12:39:13

20 Q What is the difference between acrylic and 12:39:15
21 Lucite? 12:39:17

22 A Lucite is a company. 12:39:21

23 Q So you purchased a sheet of acrylic from 12:39:22
24 the company named Lucite? 12:39:24

25 A Yeah. Lucite is the largest acrylic 12:39:26

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1	manufacturer in the world, owned by the Queen of	12:39:29
2	England and stockholders.	12:39:32
3	Q I didn't know that.	12:39:35
4	A That's what they told me, at least. I	12:39:35
5	would go there often.	12:39:38
6	Q Where are they?	12:39:39
7	A Tennessee? Kentucky? I get the two mixed	12:39:41
8	up. Yeah, Tennessee or Kentucky.	12:39:57
9	They have a very big competitor. I bought	12:39:57
10	from them, too, same sheet. The competitor had to	12:39:59
11	buy all the raw materials from Lucite to make the	12:40:00
12	competing material, because Lucite had all the	12:40:03
13	patents. But the end product was not -- is on	12:40:05
14	back order, and they did a better job with colors,	12:40:10
15	as far as I'm concerned.	12:40:12
16	Q So we have been going about another hour.	12:40:13
17	A Okay.	12:40:16
18	Q Would you like another five-minute break?	12:40:16
19	A No.	12:40:21
20	THE WITNESS: How about you? You're	12:40:21
21	typing like crazy? I'm trying to go slow for her.	12:40:22
22	BY MR. HALVERSON:	12:40:34
23	Q We'll keep going a little bit longer.	12:40:34
24	Do you have an understanding of	12:40:35
25	approximately how much time between the -- excuse	12:40:36

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1	me.	12:40:36
2	Do you have an understanding of how much	12:40:41
3	time passed between the first time that you saw	12:40:42
4	that nameplate on the desk that had been CNC'd	12:40:47
5	out, and when you actually filed either of those	12:40:52
6	patent applications.	12:40:54
7	A Maybe a year.	12:41:00
8	Q And were you taking notes, are there lab	12:41:02
9	notebooks or any sort of written records that have	12:41:10
10	that process --	12:41:10
11	A No, I am not a notetaker for anything at	12:41:10
12	all, okay?	12:41:12
13	Because here's the thing:	12:41:23
14	For any invention, I mean, if you're --	12:41:25
15	while you're developing it, it changes. You know,	12:41:27
16	my goal was achieved, and that was to make a sheet	12:41:30
17	look like a beautiful actual piece of tile. And	12:41:33
18	this covered it. Because that changed everything.	12:41:36
19	All the other benefits of the money I	12:41:38
20	saved and the ease of manufacturing, although	12:41:46
21	wonderful, that's not how it started. But after I	12:41:49
22	realized how much money would be saved, that was	12:41:53
23	one of the prime things, and what really made this	12:41:56
24	happen.	12:42:05
25	Q Did you read any articles about CNC	12:42:05

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1	machining --	12:42:08
2	A No.	12:42:09
3	Q -- in the process of those efforts?	12:42:09
4	A No. My wife knew CNC. She bought one,	12:42:12
5	and she operated it for my children. They have	12:42:16
6	their own company, and they make solid surface	12:42:20
7	products.	12:42:22
8	Q What is that?	12:42:23
9	A It's a type of material. Corian. Are you	12:42:24
10	familiar? Okay.	12:42:30
11	It's an imitation marble that is high-end	12:42:32
12	and high-quality.	12:42:34
13	Q Okay.	12:42:37
14	A Okay? And it's very different.	12:42:38
15	Although there is some acrylic in it, I	12:42:39
16	think it's only 8 percent. The rest is a material	12:42:42
17	called aluminum trioxide. And what that does is	12:42:45
18	when the material's on fire, it turns to water and	12:42:48
19	self extinguishes.	12:42:52
20	Q Cool.	12:42:55
21	A Yeah, there's one other product that does	12:42:55
22	that, too, in the acrylic world. Aluminum	12:42:58
23	trihydrate, which is rust and aluminum.	12:43:01
24	Q And so your wife's CNC machine that she	12:43:06
25	had on hand, do you recall, did she own that	12:43:11

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1	before --	12:43:13
2	A Oh, she owned it for many years.	12:43:14
3	Q Okay.	12:43:16
4	A And she learned how to program it. She	12:43:19
5	had a -- she had -- what's the big one for	12:43:23
6	designing things? What's the big program	12:43:24
7	everybody uses?	12:43:25
8	Q I don't --	12:43:25
9	A Autodesk.	12:43:29
10	Q Autodesk?	12:43:29
11	A She used Autodesk and Toolpath.	12:43:31
12	And why would I do it when I can have her	12:43:35
13	do it? You know, for something -- running a	12:43:39
14	company, I worked night and day. I worked	12:43:41
15	weekends for decades, like most entrepreneurs.	12:43:45
16	Q Jeff Kincaid.	12:43:48
17	A Yes.	12:43:50
18	Q The guy that you had hired --	12:43:50
19	A He was originally hired to be my trainer,	12:43:53
20	because he was technical. And his job was to go	12:43:56
21	out in the field and work with people and do	12:44:00
22	installs.	12:44:02
23	Q So his -- when you say "trainer," you	12:44:02
24	mean, like, training the technicians --	12:44:02
25	A Installations.	12:44:02

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1	Q -- who are out putting in the --	12:44:03
2	A The installation technicians.	12:44:06
3	Q Do you know what his background was?	12:44:08
4	A Yes. He worked in -- I think he said it	12:44:10
5	was a college. He taught a high-end shop class.	12:44:13
6	I got him because I knew his wife, and I	12:44:20
7	knew what he did, and I said, I need a guy like	12:44:25
8	that, and she said, I'll talk to him. Money	12:44:30
9	talks, and I got him.	12:44:32
10	Q And so based on your understanding of the	12:44:39
11	patent, Exhibit 1 --	12:44:41
12	A Okay.	12:44:43
13	Q -- are there any other ways that one could	12:44:43
14	remove a layer of an acrylic sheet using a CNC	12:44:48
15	machine beyond what is covered in your patent?	12:44:52
16	MR. REMUS: Objection to form and outside	12:44:55
17	the scope of permissible discovery.	12:44:57
18	You can answer the question, if you're	12:45:00
19	able to.	12:45:01
20	THE WITNESS: Not that I know of.	12:45:01
21	BY MR. HALVERSON:	12:45:04
22	Q So as --	12:45:05
23	A But I always say, Give me time. I'll	12:45:06
24	figure something out.	12:45:09
25	But there's a lot of experimenting before	12:45:10

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1 you -- what sounds good originally, like, I could 12:45:16
2 probably drop a hundred grand on the printer 12:45:19
3 before I realize I'm going nowhere. I'm chasing 12:45:22
4 my tail. 12:45:27

5 And this, too, you know, to get something 12:45:28
6 right and repeatable, and "repeatable" is the most 12:45:31
7 important word here, and accomplishes what I 12:45:34
8 wanted, which was a beautiful tile look, there is 12:45:37
9 not that I know of. Because of what I do is 12:45:40
10 three-dimensional. You could actually put your 12:45:45
11 finger in the hole. 12:45:48

12 There are people that print a tile look, 12:45:49
13 but it's flat as flat is. And it still looks like 12:45:52
14 somebody's cheating, because a real grout is a 12:45:57
15 three-dimensional surface, and this is a 12:46:00
16 three-dimensional sheet. It covers all the bases 12:46:04
17 of what my customers wanted, and what I could 12:46:07
18 produce, and what I could patent. 12:46:10

19 Q That desktop nameplate? 12:46:12

20 A Yeah. 12:46:15

21 Q Was that also three-dimensional? 12:46:16

22 A Sure. 12:46:18

23 Q You could put your finger -- 12:46:19

24 A Yeah. 12:46:19

25 Q -- and get down to the paint layer below 12:46:20

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1	it --	12:46:22
2	A No, it wasn't in there --	12:46:23
3	Q -- or the color layer below it?	12:46:24
4	A -- it was probably ABS or acrylic or below	12:46:27
5	it.	12:46:30
6	Q Do you remember where you saw that?	12:46:31
7	A Somebody's desk. I think it was a doctor	12:46:33
8	or a nurse or a CPA -- I don't know, but I	12:46:37
9	remember going home thinking, Damn, if I could do	12:46:41
10	lines like that, I could save my ass.	12:46:47
11	So then I started dicking with it and --	12:46:51
12	excuse me, don't put that word in there. I	12:46:53
13	started playing with it, and it just came to life.	12:46:57
14	THE WITNESS: You put it in there.	12:47:03
15	THE REPORTER: I have to.	12:47:04
16	THE WITNESS: You have to, I got it. My	12:47:05
17	fault. I apologize to everyone here.	12:47:06
18	And I eventually was able to see that this	12:47:08
19	had merit, that I didn't have to reinvent	12:47:13
20	everything, I could just figure out the kinks that	12:47:17
21	were making the sheet look bad.	12:47:19
22	Working and run a company and have a house	12:47:22
23	and have two kids in Scouts and everything else at	12:47:23
24	the same time, if was difficult, to be straight	12:47:29
25	up.	12:47:31

Transcript of Mark Domanico
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1	But I was working on many different	12:47:32
2	projects other than that one, obviously, keeping	12:47:34
3	the machines going.	12:47:36
4	BY MR. HALVERSON:	12:47:37
5	Q Did you ever check with any of your	12:47:38
6	dealers about the patent process that you were	12:47:39
7	going through?	12:47:42
8	A No. My dealers? There was no reason to	12:47:43
9	talk with them, except the following:	12:47:48
10	My dealers want to know if they had	12:47:51
11	rights. What would make their product different	12:47:54
12	than what the other guy was selling at the Home	12:47:57
13	Show.	12:48:00
14	So by saying, Well, it has Microban in it.	12:48:02
15	Nobody one else has that. It's the only one that	12:48:08
16	looks like real tile. Everybody else has the	12:48:12
17	formed.	12:48:14
18	My job was to deliver a differentiated	12:48:14
19	product that the customer would want, and that is	12:48:19
20	what I discussed over and over.	12:48:19
21	So by saying, Yeah, it's patented, that	12:48:21
22	was a definite thing I had to tell everybody,	12:48:25
23	because the corresponding part to that is if I was	12:48:28
24	in this lady's home, I would say to this lady, We	12:48:31
25	are the only ones with this material. We have a	12:48:35

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1 patent on it. We developed this. So if you 12:48:38
2 really love the material like you said, you could 12:48:41
3 only get it from us. So let's just work out a 12:48:44
4 price or terms that you could live with, and we'll 12:48:47
5 go from there, okay? 12:48:50

6 Q Makes -- 12:48:53

7 A And oftentimes I did a show-and-tell where 12:48:53
8 I would bring the old material, and I would say we 12:48:55
9 have this or this. 12:48:58

10 This is my higher-end product, this is my 12:49:02
11 lower-end product. If you really need to save 12:49:04
12 money, Oh, hell, yeah, I used to own the building, 12:49:07
13 I am going to rent it. I am not buying the good 12:49:10
14 stuff. Fine, they always want just plain white 12:49:14
15 anyhow, but I would have had the ability to meet 12:49:17
16 the customers' needs, and everybody had different 12:49:21
17 needs. 12:49:24

18 Q What is or what was the price point, 12:49:24
19 roughly, between the CNC'd grout lines and the 12:49:27
20 thermoformed grout lines? 12:49:30

21 A I didn't make that up. I don't know. I 12:49:33
22 had a girl do that. She would do all the math on 12:49:35
23 the markups, and I don't really know that. 12:49:38

24 And you know what? The price of plastics 12:49:41
25 changed -- at that time was changing damn near 12:49:44

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1	every couple months. It was like two years ago.	12:49:47
2	And the reason the price changed was there	12:49:50
3	was a shortage, a shortage of the basic molecule.	12:49:55
4	MR. HALVERSON: Let's take a quick break.	12:49:59
5	THE WITNESS: Okay.	12:50:03
6	THE VIDEOGRAPHER: We are going off the	12:50:05
7	record. The time is 12:50 p.m.	12:50:06
8	(Recess taken.)	12:56:48
9	THE VIDEOGRAPHER: We are going back on	12:56:49
10	the record. The time is 12:57 p.m.	12:56:50
11	BY MR. HALVERSON:	12:56:53
12	Q Mr. Domanico, you brought some things with	12:56:53
13	you today. Is there anything in there that's	12:56:55
14	relevant today, or is that just your normal	12:56:57
15	notepad of stuff?	12:56:58
16	A Everything that you gave me. It's this	12:56:58
17	and a couple other things, and some people I need	12:57:00
18	to call after I get done with you.	12:57:03
19	Q Got it. So the clipboard and --	12:57:05
20	A And this -- this is all plain white paper	12:57:07
21	stuff, and then the rest is parking.	12:57:10
22	Q Not tied to this case?	12:57:12
23	A No, no.	12:57:14
24	Q Got it.	12:57:14
25	A Well, other than this page, I got the	12:57:14

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1	patent and the summons. Yeah, that's it.	12:57:16
2	MR. HALVERSON: I have no further	12:57:21
3	questions this morning, subject to anything from	12:57:22
4	Mr. Remus.	12:57:24
5	THE WITNESS: Are these for me?	12:57:31
6	MR. REMUS: No.	12:57:31
7	THE WITNESS: Okay. I didn't know.	12:57:31
8	MR. HALVERSON: Fair question.	12:57:36
9	Mark is going to have some questions, I	12:57:39
10	suspect.	12:57:41
11	EXAMINATION	12:57:44
12	(Domanico Exhibit 6 is introduced for the	12:58:16
13	record.)	12:58:17
14	BY MR. REMUS:	12:58:17
15	Q So Mr. Domanico, we have marked as	12:58:18
16	Exhibit 6 an email string that is a continuation	12:58:21
17	of the email that was marked as Exhibit 3. Do you	12:58:23
18	recall talking about Exhibit 3 earlier today?	12:58:27
19	A No.	12:58:31
20	Q Here, I'll put that right next to it.	12:58:32
21	A This is the same thing.	12:58:34
22	Q Okay?	12:58:34
23	A Oh, wait, wait. Oh, no. Okay. It's	12:58:35
24	slightly different. I see that.	12:58:37
25	Q Okay. So if we look at Exhibit 6, the	12:58:39

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1	bottom email is the same as the email that was	12:58:41
2	marked as Exhibit 3; is that correct?	12:58:43
3	A Okay.	12:58:47
4	Q Do you agree with that?	12:58:49
5	A Yeah, there's just a whole lot more to it.	12:58:55
6	Why?	12:58:59
7	Q And then the -- so the email that's the	12:58:59
8	same as the November 4th email from Jeff Whitley	12:59:00
9	to you and Mary Riordan. Do you agree with that?	12:59:08
10	A Yes.	12:59:11
11	Q And then right before that you responded	12:59:11
12	on November 5, 2014, where you say:	12:59:13
13	Jeff, we have already ordered a rounded	12:59:19
14	bit for our CNC router. Mary wanted you to have	12:59:21
15	the samples ASAP. No one has samples yet, signed	12:59:25
16	Mark Domanico.	12:59:25
17	See that?	12:59:25
18	A Yes.	12:59:35
19	Q The rounded bits that you referred to in	12:59:35
20	this email that we've marked as Exhibit 6, had you	12:59:37
21	already ordered those before you ever received the	12:59:41
22	November --	12:59:43
23	A Sure.	12:59:43
24	Q Let me finish the question.	12:59:43
25	A Oh, I'm sorry.	12:59:45

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1	Q Before you received the email from	12:59:45
2	Mr. Whitley on November 4th?	12:59:48
3	A Yeah, or I could not have responded that	12:59:49
4	they were already ordered.	12:59:51
5	Q Why would you have already ordered rounded	12:59:53
6	bits before you ever heard from Mr. Whitley?	12:59:57
7	A Well, the bit that I used was a straight	13:00:00
8	cutting bit, because that's all I had on the	13:00:04
9	machine, and it left very sharp edges, and those	13:00:07
10	edges were dangerous. I actually cut myself	13:00:08
11	leaning into it.	13:00:12
12	And I didn't order this kind of a bit.	13:00:13
13	What I ordered was the entire shank was rounded	13:00:15
14	at -- on the end, but this wouldn't, pretty much	13:00:18
15	be the same thing. It's just it would use a less	13:00:20
16	powerful router, because this would fit into the	13:00:23
17	collet of a less powerful router. This was before	13:00:27
18	a two-horsepower router or a three-horsepower	13:00:31
19	router. I was using a big industrial router,	13:00:35
20	about yay big, [indicating], you know.	13:00:35
21	Q So was it always your intention for the	13:00:36
22	simulated grout lines to have rounded shapes?	13:00:38
23	A No, but I had to figure it out that I	13:00:41
24	needed it, and then I ordered what I needed. As	13:00:44
25	soon as I -- after you make it, and you cut	13:00:48

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1	yourself, you go, oh, it ain't going to work, you	13:00:50
2	know what I mean?	13:00:53
3	But I ordered it right away. I mean, I	13:00:54
4	ordered the products. It's just that because I'm	13:00:56
5	using a really big bit for an industrial bit or --	13:00:59
6	I found I couldn't just go to the hardware store	13:01:03
7	and get exactly what I wanted. It took some time	13:01:06
8	to get it.	13:01:09
9	Q Did you know that straight edges,	13:01:10
10	completely right-angle corners --	13:01:12
11	A Yeah.	13:01:12
12	Q -- were a problem before you ever heard	13:01:15
13	from Mr. Whitley?	13:01:16
14	A Yes. Like I said, I cut myself on it.	13:01:18
15	Q Did Mr. Whitley tell you anything you	13:01:20
16	didn't already know in his November 4, 2014,	13:01:22
17	email?	13:01:25
18	A The email?	13:01:25
19	Well, I saw him right before this, and we	13:01:26
20	talked about the product, and I don't remember	13:01:28
21	talking -- truth?	13:01:32
22	I don't remember talking to him about	13:01:35
23	this. I'm sure looking at this letter, he did,	13:01:36
24	but I was so busy at the time, this came later. I	13:01:40
25	went to him with prototype samples telling him,	13:01:44

Transcript of Mark Domanico
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1	this is what I invented. This is all the things	13:01:51
2	it will do for you in the field. This is really	13:01:53
3	going to change the game in its entirety, because	13:01:56
4	we have things nobody else does, and it's a	13:01:58
5	better-looking system, and it costs less to make,	13:02:00
6	and I'd like to -- I'd love to sell it to you.	13:02:03
7	You know, he was a good dealer. He was a good	13:02:08
8	salesman. He had dealers he sent to, so I knew he	13:02:11
9	would be a volume dealer, so I went to him first.	13:02:15
10	And I remember -- him and I were laughing	13:02:18
11	recently, because the day I went there, and I	13:02:23
12	remember the day clearly. I was driving down the	13:02:24
13	street in his town. It was early December. It	13:02:26
14	was snowing, and I got a phone call, and I know in	13:02:29
15	Canada you don't pick up the damn phone. So I	13:02:32
16	actually pulled up behind a donut shop, and I	13:02:37
17	parked.	13:02:40
18	Now, it's winter, the car's on. And I'm	13:02:41
19	talking on my car, and on my phone. A cop pulls	13:02:43
20	up next to me and rolls down the window and does	13:02:48
21	this (indicating) roll down your window, so I do,	13:02:51
22	and the cop says, Turn the car off. I go, What's	13:02:54
23	the matter, officer? He goes, I'm going to write	13:02:57
24	you up a ticket for driving while on the phone.	13:03:00
25	I said, I'm -- I'm parked. No, your	13:03:03

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1	foot's on the brake and your car is on.	13:03:06
2	So I said to Jeff, Jeff, what the hell is	13:03:08
3	it with this guy? He says, Everybody calls him	13:03:12
4	Barney, because this guy won't let anything go.	13:03:15
5	And I remember -- and I'm just telling	13:03:17
6	you, we were warm to each other, and still are,	13:03:19
7	but I brought him samples. And we weren't	13:03:22
8	ready -- like I said, he would need time, and I	13:03:26
9	would need time to get everything together. But I	13:03:29
10	wanted him ready ASAP. Mary did, too, because I	13:03:32
11	went to visit all my big guys.	13:03:38
12	I went to Statewide in Texas, I went to a	13:03:40
13	lot of my really big players that bought volume,	13:03:44
14	because of, you know, that's where the gold is.	13:03:49
15	Q When did -- when was the first time that	13:03:52
16	you told Mr. Whitley about the patent we're	13:03:56
17	dealing with here today, which we marked as	13:04:00
18	Exhibit 1?	13:04:03
19	A When I saw him with the prototypes.	13:04:03
20	Q Okay. So that was back in 2014?	13:04:06
21	A Yeah.	13:04:07
22	Q Okay.	13:04:08
23	A I actually, if I remember right now, I	13:04:10
24	don't remember if it was Jeff or somebody else,	13:04:13
25	but somebody ordered some sheets that my guys made	13:04:15

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1 using the old bit. But I gave -- I gave Jeff some 13:04:19
2 prototypes. 13:04:23

3 Additionally, I had more prototypes in my 13:04:24
4 suitcase, and it was a problem, because Air Canada 13:04:27
5 lost my bags, and so I -- I was without 13:04:30
6 prototypes. I had to go and order some more and 13:04:37
7 have them sent to me on the road. 13:04:39

8 Q Was the objective for your -- 13:04:44

9 A And the reason I remember the Air Canada 13:04:47
10 is I was reading the note that Jeff wrote me, and 13:04:52
11 I told him, Hey, don't worry, Air Canada found my 13:04:55
12 bag, you know, but now I remember it. I had my 13:04:59
13 prototypes in the bag, and I was doing the tour of 13:05:01
14 my top guys trying to get some big orders for the 13:05:03
15 future. 13:05:06

16 Q Was the objective for the simulated grout 13:05:07
17 lines that you were forming in the acrylic to as 13:05:10
18 closely resemble real grout lines -- 13:05:15

19 A Yes. 13:05:17

20 Q -- as near as possible? 13:05:19

21 A Yes. When somebody looked at it, I wanted 13:05:20
22 real grout lines. 13:05:22

23 Q And are real grout lines round or do they 13:05:23
24 have sharp edges? 13:05:27

25 A Depends on how good the tile guy was, but 13:05:29

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1	hopefully, slightly rounded edges.	13:05:37
2	But there's a certain look you're looking	13:05:40
3	for, and that will determine the geometry of the	13:05:42
4	bit. You know, if it's too sharp or too shallow,	13:05:45
5	you're not going to get the bit -- it's all about	13:05:48
6	look. I want to blow somebody's socks off when	13:05:51
7	they see the look. Oh, that's not real tile? Are	13:05:56
8	you kidding? And I go, Come on in the bathtub or	13:05:59
9	the shower. And I go, Feel it. That's the "ah."	13:06:01
10	That's what I was looking for.	13:06:05
11	Q If you could take a look at Exhibit 1,	13:06:07
12	which is the '243 patent.	13:06:09
13	A Yes.	13:06:11
14	Q And I want to refer you to a passage that	13:06:12
15	Mr. Halverson asked you about at column 2.	13:06:14
16	A Okay. I got to put my glasses on here.	13:06:17
17	Is that in the back or the front?	13:06:20
18	Q It's on page 8.	13:06:22
19	A Page 8.	13:06:28
20	Q BCI 8.	13:06:28
21	A Page 8.	13:06:31
22	I got to get one of those little rubber	13:06:31
23	things that go on your finger.	13:06:34
24	MR. HALVERSON: Floor samples?	13:06:34
25	THE WITNESS: Yeah, there you go, I	13:06:37

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1	actually have a few of them at home, because my	13:06:38
2	cat likes to play with them.	13:06:41
3	Okay. Here, is this it?	13:06:42
4	Q Yeah. So at the bottom of column 2 --	13:06:44
5	A Okay.	13:06:44
6	Q -- and line 64, 63, 64?	13:06:47
7	A Okay. 61, 2.	13:06:52
8	Q This is where it refers to --	13:06:55
9	A Material?	13:06:56
10	Q Yeah. So it says: "The amount of	13:06:57
11	material removed from the sheet 13 is relatively	13:06:58
12	small, generally in the order of 0.005 inches."	13:07:01
13	See that there?	13:07:12
14	A Yes.	13:07:13
15	Q Is that the typical depth of a real grout	13:07:13
16	line?	13:07:16
17	A Could be. Some grout lines are dead flat.	13:07:16
18	Some -- usually, if you're in a commercial	13:07:20
19	situation, you'll see the grout lines are dead	13:07:22
20	flat.	13:07:25
21	If you're in a home, the way they use it,	13:07:25
22	they install it with a sponge, so there's a little	13:07:27
23	bit of indent.	13:07:30
24	But it all looks like, what you're used to	13:07:31
25	seeing, whenever you go out, it looks like real	13:07:34

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1	tile.	13:07:37
2	But besides the dent, there's a little	13:07:37
3	difference in the tactile feel of the ABS versus	13:07:46
4	the acrylic, because the acrylic is very shiny,	13:07:47
5	like a car, and the router blade just disturbs the	13:07:50
6	surface of it. There's a little bit of friction	13:07:57
7	when you run your finger across it. So it looks	13:07:59
8	and feels different, and that's what makes it look	13:08:02
9	like tile. Even if I used my straight square bit,	13:08:05
10	I'd still have that feel, but I wouldn't want	13:08:09
11	anybody to stick their finger down that.	13:08:12
12	Q Was it your intention for the simulated	13:08:15
13	grout line to have approximately the same depth as	13:08:17
14	a real grout line?	13:08:20
15	A Well, what I wanted was the look.	13:08:21
16	At first, I thought I would need three	13:08:25
17	different bits, a fine, a medium, and a thicker.	13:08:27
18	I didn't want to get into the Mexican-style tile,	13:08:33
19	where they were half-inch thicknesses, because I	13:08:36
20	didn't think that would look good on a wall.	13:08:40
21	That's more for a floor.	13:08:42
22	But yeah, I thought I would have	13:08:45
23	different. But once I started playing with it, I	13:08:46
24	realized that if I just varied the depth of the	13:08:49
25	CNC, I didn't have to change bits.	13:08:54

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1	Although, I got to tell you, my CNC	13:08:55
2	machine was an auto bit changer. It had a whole	13:08:59
3	series of these special collets, and it was able	13:09:02
4	to robotically pick up the bit that it needed.	13:09:06
5	And that was the problem, getting something to	13:09:09
6	fit. I didn't have the collets, I didn't have	13:09:11
7	the -- I had to get more equipment to be able to	13:09:13
8	deliver what I wanted to deliver. Which I got.	13:09:16
9	MR. REMUS: All right. If we could mark	13:09:37
10	this as Exhibit 7.	13:09:38
11	(Domanico Exhibit 7 is introduced for the	13:09:41
12	record.)	13:09:43
13	THE WITNESS: Could I get another water?	13:09:43
14	BY MR. REMUS:	13:09:43
15	Q I'll get it for you.	13:09:46
16	A Thanks, getting dry out here.	13:09:48
17	Q So we have handed you what is marked as	13:09:50
18	Exhibit 7, which is titled Declaration of Mark	13:09:53
19	Domanico. Have you seen this document before?	13:09:56
20	A I have.	13:09:58
21	Q What is this?	13:09:59
22	A Scott Rosenbach from BCI Acrylic told me	13:09:59
23	that he was in a lawsuit with Jeff, and he said	13:10:06
24	that him and Jeff had been trying to work it out	13:10:09
25	for a year or two, and unfortunately they	13:10:13

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1	couldn't, and he said, unfortunately, it had to	13:10:16
2	come to a legal and it's unfortunate.	13:10:19
3	Q What is Exhibit 7, this Declaration of	13:10:21
4	Mark Domanico?	13:10:23
5	A It says that I know Jeff, I knew all about	13:10:40
6	him, and he knew all about me.	13:10:44
7	Q Did you prepare this declaration?	13:10:45
8	A Hell no.	13:10:47
9	Q Do you know who did prepare this	13:10:48
10	declaration?	13:10:49
11	A No, I do not.	13:10:49
12	Q Okay. Is this a declaration that was sent	13:10:50
13	to you by -- who sent you this declaration?	13:10:51
14	A Did you send it? Did you send it?	13:10:54
15	Q Do you remember if you got it from either	13:10:58
16	Mr. Halverson or Mr. Whitley?	13:11:01
17	A You sent it.	13:11:10
18	Q Do you recall sitting here today? If you	13:11:13
19	don't remember --	13:11:15
20	A No, no, no.	13:11:16
21	THE WITNESS: You didn't send this?	13:11:19
22	MR. HALVERSON: [Nonverbal response.]	13:11:21
23	THE WITNESS: Okay. Then I'm out of my	13:11:24
24	mind. Maybe it had to be Jeff.	13:11:26
25		

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1	BY MR. REMUS:	13:11:28
2	Q Were you asked to sign this declaration?	13:11:29
3	A What I said to Jeff about this was, I'll	13:11:33
4	read it. I couldn't read it right away, and I'll	13:11:38
5	go through it, and I'll make any corrections that	13:11:42
6	I feel are necessary, because just perusing	13:11:46
7	through it, I thought it was way off base, and I	13:11:52
8	wanted to insert my story, because of -- it's	13:11:55
9	wrong.	13:12:00
10	Q In what way was it way off base?	13:12:00
11	A Sounds like Jeff and I did this together,	13:12:04
12	and we never did it together. The only thing I	13:12:06
13	ever got from him was this, and it was after the	13:12:10
14	fact that I already had that already incorporated	13:12:12
15	and ordered.	13:12:15
16	Q So just to be clear, the "this" you're	13:12:16
17	referring to is Exhibit 6?	13:12:18
18	A Oh, sorry, Exhibit 6.	13:12:20
19	So -- and there's so much more to it than	13:12:22
20	what bit use, I mean, so much more to it.	13:12:25
21	Q And you never signed this declaration,	13:12:32
22	correct?	13:12:33
23	A Unh-unh. I really wanted to go through it	13:12:33
24	and write my story using this format, because it's	13:12:36
25	a legal format, and I thought that's what I had to	13:12:41

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1	-- had to do, and I told Jeff that I would go	13:12:43
2	through it.	13:12:47
3	Q Okay.	13:12:50
4	A I got sick, and I take these, you know,	13:12:50
5	chemo medicine. Sometimes it just puts me off the	13:12:55
6	wall. I just have some days I have to space out	13:12:58
7	for a day or two.	13:13:00
8	Q Okay. Let's -- let's go through this now,	13:13:01
9	and just -- I want to make sure I have an accurate	13:13:04
10	understanding of what you agree with and don't	13:13:07
11	agree with.	13:13:08
12	A Okay.	13:13:09
13	Q We'll go through each paragraph.	13:13:09
14	A I actually skimmed through this. I never	13:13:11
15	really read it.	13:13:15
16	Q Okay.	13:13:15
17	A So I'd have to read it to tell you what I	13:13:16
18	agree with or not.	13:13:18
19	Q How about if we do it -- and that's fine.	13:13:19
20	How about if we do it paragraph by paragraph?	13:13:21
21	A Fine. Whatever makes you guys happy.	13:13:24
22	Q All right. So let's start with paragraph	13:13:26
23	one.	13:13:27
24	A Okay.	13:13:27
25	Q Read that to yourself, and then let me	13:13:27

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1	know if there's anything you disagree with in that	13:13:31
2	paragraph?	13:13:34
3	A Okay. Hosted in Libertyville, it wasn't.	13:13:39
4	It was in Glendale Heights, but eventually we	13:13:43
5	moved to Libertyville, so I could understand that.	13:13:47
6	I was one of the owners. Okay. And	13:13:51
7	listed as defendant, which is true. So one is	13:13:53
8	right.	13:13:55
9	Q Okay. Let's move on to two. If you could	13:13:55
10	read that and let me know if there's anything in	13:13:58
11	there that you disagree with.	13:14:01
12	A Yeah, it's good.	13:14:18
13	Q Let's move on to paragraph 3, same -- same	13:14:19
14	question. Read that to yourself and then let me	13:14:23
15	know if there's anything you disagree with.	13:14:25
16	A Mr. Whitley was well known to have	13:14:27
17	significant --	13:14:31
18	THE REPORTER: I need to take that down if	13:14:31
19	you're reading out loud.	13:14:35
20	THE WITNESS: Oh, sorry.	13:14:37
21	Okay. The last line, it says, we have	13:15:15
22	discussions, and these discussions were not	13:15:17
23	formal, I talked with all my dealers when I	13:15:19
24	visited them about: What do we need to do to	13:15:24
25	improve? That's what a businessman does.	13:15:26

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1	Was he well-known? I would think he was,	13:15:29
2	because he had dealers all throughout Canada. I	13:15:32
3	don't -- I don't dispute that with him.	13:15:38
4	And I had these annual conventions where I	13:15:39
5	get all the guys together, and truthfully, they	13:15:44
6	don't want to hear from me all the time. So I	13:15:47
7	always asked my better dealers to talk to their	13:15:51
8	peers, please share your ideas, and I had, through	13:15:53
9	all those years, many, many, many of my people get	13:15:56
10	up and say, This is my particular flavor and how I	13:16:00
11	do it, and this works well for me in my markets.	13:16:03
12	And then I would break out -- the big guys	13:16:05
13	would talk to other big guys, the little guys	13:16:08
14	would talk to other little guys, on little	13:16:11
15	breakout forms so that they could all get benefits	13:16:14
16	from being part of the same franchise group. And	13:16:18
17	yeah, we all talked about, always, what would you	13:16:22
18	have to do to discuss better ideas.	13:16:25
19	I don't know about new products. But I	13:16:30
20	don't even know if we talked products, but we did	13:16:37
21	talk about improvements to how we worked as a	13:16:40
22	team, like he had a certain way he wanted it	13:16:43
23	packed, he wanted a certain amount of them done a	13:16:48
24	certain way. Those are all really good ideas, and	13:16:50
25	like I said earlier, you know, if a guy really	13:16:53

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1	wants something, I'm going to go bend over	13:16:56
2	backwards to make him happy.	13:16:59
3	I have other dealers that only wanted	13:17:01
4	A-frame packing, which is -- and then because he's	13:17:05
5	over the country line, I had to pack individual	13:17:08
6	pallets. Each one had its own shipping	13:17:14
7	classification, whereas when I ship in the USA, I	13:17:17
8	used what they call GAK, goods all kinds. So I	13:17:23
9	could mix within the box several different	13:17:30
10	classifications, because to them I wasn't shipping	13:17:32
11	large volumes. I was shipping a bath in a box.	13:17:35
12	So each box, they could put it on the	13:17:41
13	truck and take it. So yeah, we always talked	13:17:44
14	about getting better. I did that with everybody.	13:17:48
15	So, you know, like I could agree with that.	13:17:51
16	But products? Yeah, I guess so. Because	13:17:52
17	I brought him the sample of a few things I was	13:17:56
18	working on. I do that to everybody. But	13:18:01
19	especially if I don't -- if I'm hoping it would	13:18:06
20	sell, I'd -- you think -- because it's all about	13:18:11
21	the sale. Why work on a project if the customer	13:18:12
22	doesn't want it?	13:18:16
23	And many times I'd come up with an idea,	13:18:17
24	like a trim piece or something. Now we got too	13:18:19
25	many trim pieces. We don't need another color.	13:18:23

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1	We -- then I won't waste my time.	13:18:26
2	Yeah, I talk about products pretty much	13:18:29
3	with everybody. The interesting part was, I'll	13:18:30
4	give you an example. I got a color in the	13:18:33
5	southwest that was orange and gold, and a little	13:18:35
6	bit of yellow. What an ugly color -- sorry, am I	13:18:38
7	going too fast?	13:18:42
8	Everybody bought it. New Mexico, Arizona.	13:18:42
9	You couldn't give it away in Canada, but it looked	13:18:48
10	like the American Southwest, and dammit, people	13:18:52
11	fell in love with it.	13:18:55
12	So I would listen to the local guy, What	13:18:56
13	do you need? You know, in Boston, they all wanted	13:18:57
14	these little, teeny octagonal tiles squares. I	13:19:00
15	call it New York subway bathroom. But that's what	13:19:05
16	the customer wanted.	13:19:05
17	So did we talk product? What would make	13:19:08
18	your sale better? That's what I needed to know.	13:19:10
19	What -- I'm a -- I'm a manufacturer. What do you	13:19:13
20	need to be the best at what you do? Because if I	13:19:16
21	could provide things that nobody else had, he'd	13:19:19
22	never leave me, even if somebody undercut my	13:19:22
23	price.	13:19:25
24	So always listening for better ideas,	13:19:25
25	anywhere within the company. I mean, that's what	13:19:30

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1	a CEO does. Mr. Whitley and I developed an idea	13:19:32
2	and collaborated working on ways to improve	13:19:40
3	low-volume printing.	13:19:45
4	BY MR. REMUS:	13:19:45
5	Q Okay. And just to be clear, you've moved	13:19:46
6	on to paragraph 5?	13:19:47
7	A I'm on paragraph 5.	13:19:48
8	Q Okay.	13:19:48
9	A Mr. Whitley and I. That's kind of true.	13:19:50
10	We all -- all of us in the group would	13:19:53
11	talk to each other, because there was the	13:19:57
12	salesman, and I forget his name right now,	13:19:59
13	probably look it up on my phone, but he talked to	13:20:03
14	a bunch of people, and he worked out of a company	13:20:06
15	in New Hampshire and would tell me what my	13:20:09
16	competitors were doing.	13:20:11
17	And it wasn't a patentable process, but it	13:20:12
18	would save our entire industry having to buy from	13:20:15
19	Omnova and put the majority of our money into	13:20:23
20	preprinted patterns. It would allow us to lower	13:20:26
21	our inventory and deliver on time.	13:20:30
22	Now, as I stated earlier, there was	13:20:32
23	already one company doing this. They had	13:20:34
24	significant problems with it in the fact that it	13:20:36
25	was hazy, and it peeled, but he didn't have to put	13:20:40

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1	a ton of money into inventory and other things.	13:20:43
2	So he was selling it. And you know what?	13:20:46
3	People will buy anything, but I had a more	13:20:49
4	upscale, and I knew my customers would not want a	13:20:52
5	hazy product. So I, Re-Bath, BCI, we all gave up,	13:20:55
6	that I know of.	13:21:04
7	Now, the material that Jeff has currently	13:21:06
8	is made by Senoplast, and he asked if we wanted to	13:21:09
9	buy some from him, and even though we buy material	13:21:15
10	from Senoplast, there's minimum runs.	13:21:20
11	So the owner of the company at this time,	13:21:22
12	I don't know him. I just play around with him. I	13:21:24
13	don't even work there. I don't even get paid, I	13:21:28
14	think he is going to buy some Senoplast material	13:21:30
15	from Jeff. And some day, when he has a volume,	13:21:33
16	maybe he'll buy from Senoplast direct. I don't	13:21:36
17	know. Maybe it works out well that if he provides	13:21:39
18	Jeff the shower pans and Jeff gives him walls,	13:21:42
19	maybe they're both happy with that, but that's not	13:21:47
20	my place.	13:21:50
21	Q In paragraph 5, where Mr. Whitley refers	13:21:51
22	to an idea, that was never successful, right?	13:21:55
23	Nobody solved that problem?	13:21:58
24	A That I know of to this date, nobody has	13:21:59
25	solved it to what I would consider right.	13:22:03

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1	Q Okay.	13:22:06
2	A There's a company that I mentioned in	13:22:06
3	Utah, Salt Lake city. They're called, it begins	13:22:09
4	with an S. I don't know. I don't remember. It's	13:22:13
5	like Sentinel or something like that. They're the	13:22:15
6	ones with the haze. They think they got a good	13:22:17
7	business going. I wouldn't sell it.	13:22:22
8	Q And then in paragraph 5, in terms of	13:22:24
9	working collaboratively with Mr. Whitley, were the	13:22:26
10	two of you working on a single idea together or	13:22:37
11	were you each doing your own thing, but comparing	13:22:39
12	notes?	13:22:39
13	A Comparing notes. Actually, I didn't work	13:22:39
14	on it that much.	13:22:41
15	What happened was I hired a guy who had	13:22:43
16	gone to college, Elmhurst College, for graphic	13:22:46
17	arts.	13:22:50
18	How do I say it? I actually think	13:22:51
19	printing requires more brains than being a doctor.	13:22:54
20	You would not believe how insanely complicated	13:22:58
21	color printing is. You think you just press a	13:23:03
22	button. It's -- to get consistency from batch to	13:23:06
23	batch, there are so many steps that have to be	13:23:13
24	taken before you ever hit "print."	13:23:17
25	What does it look like -- if I buy ink	13:23:19

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1 from a different provider, it might look different 13:23:22
2 under incandescent light than it does under 13:23:25
3 fluorescent light, and you need it to look the 13:23:26
4 same every time. 13:23:26

5 I'll give you a perfect example of how 13:23:28
6 that could blow up your whole business. I ordered 13:23:30
7 ink from another company. And seeing how I was 13:23:40
8 making small batches, somebody screwed up a side 13:23:40
9 wall. I'll make you another one and send it to 13:23:40
10 you. He gets it and says it doesn't match. I go, 13:23:41
11 no, I got the retains here. It matches perfect. 13:23:45
12 He said, Well, go outside. I said, It doesn't 13:23:49
13 match. Because when you change the light, there's 13:23:53
14 specnometers [as spoken] that needed to be bought 13:23:55
15 and sampled and kept, and then there's all sorts 13:23:58
16 of machinery that you have to calibrate your 13:24:02
17 printer, and then it acts stupidly different when 13:24:08
18 it's hot or cold. 13:24:11

19 So I had to buy air conditioning for the 13:24:13
20 printer, even when I wasn't there, because it 13:24:16
21 wanted to be at the same temperature all year 13:24:18
22 long. I couldn't vary it. 13:24:21

23 And Canon supposedly came out what a 13:24:23
24 printer that's not temperature sensitive and ink 13:24:27
25 that's not temperature sensitive, but you have to 13:24:31

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1 sell your house to buy a bag of ink. So that 13:24:34
2 wasn't going to work. And besides that, the ink 13:24:37
3 was bumpy, and would have worn right off. 13:24:39

4 There's a lot to printing. I hired a pro 13:24:43
5 full-time, said, you work with everybody, so when 13:24:45
6 he would tell me what the failures were, I would 13:24:47
7 call people and say, Hey, do you have this 13:24:51
8 problem? Have you solved it? And well, I do it 13:24:53
9 different -- and is that collaboration? I think 13:24:55
10 it is. But it's not like we were working 13:24:58
11 together. We were working as a group. We all 13:25:01
12 wanted the same thing. How could we stop having 13:25:03
13 huge amounts of inventory or running out of 13:25:06
14 something? Like sometimes when I ran out of 13:25:09
15 material it took me four years to go through, I 13:25:12
16 just discontinued the color. It's not a big 13:25:16
17 mover. So I mean -- so this solves so many 13:25:19
18 problems. That's why everybody was interested in 13:25:21
19 it. 13:25:24

20 Q All right. Let's move on to paragraph 6 13:25:24
21 in Exhibit 7. You still have that in front of 13:25:27
22 you? 13:25:30

23 A Yes, sir. 13:25:30

24 Q All right. If you could just read 13:25:36
25 paragraph 6 to yourself, and let me know if you 13:25:38

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1	agree with that paragraph.	13:25:41
2	A I think the CNC was before the printer.	13:26:07
3	I totally disagree with the back half of	13:26:15
4	six.	13:26:17
5	Q Why is that?	13:26:17
6	A Because I don't remember talking to him at	13:26:18
7	all until I had actually had -- because at first I	13:26:21
8	talked to my patent attorney, who said, I got to	13:26:27
9	wait to do some things before I start telling	13:26:31
10	everybody. So I waited until he gave me the	13:26:34
11	go-ahead.	13:26:34
12	So it wasn't I got the idea and called	13:26:34
13	Jeff. I got the idea, sat on it for a while.	13:26:36
14	Thought it through, then went in the back room and	13:26:40
15	played with it until I thought that, you know	13:26:43
16	what? If I could work out the kinks with the	13:26:47
17	waves, this might -- this might work. And I	13:26:50
18	played with that for a while, and then I decided I	13:26:53
19	need a patent attorney if this does work.	13:26:55
20	So I started that and he said, You can't	13:26:58
21	tell anybody. Just keep it under your hat.	13:27:00
22	So I would not have called Mr. Whitley to	13:27:03
23	discuss it until I was far enough along that my	13:27:06
24	lawyer would say, Okay. You could talk to people,	13:27:10
25	you're working on it.	13:27:13

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163

1	Q Okay. Let's move on to paragraph 7. If	13:27:14
2	you could read that to yourself and let me know if	13:27:17
3	you agree with that paragraph.	13:27:19
4	A Mr. Whitley and I together developed the	13:27:50
5	grout line cut-out.	13:27:52
6	Hell no. Hell no. I worked on that all	13:27:54
7	night sometimes by myself. And there was a lot to	13:27:58
8	it, as we have been discussing here all day.	13:28:07
9	Okay. Hang on. This is important to me	13:28:16
10	to read this. Okay.	13:28:19
11	Yes. He says that I was very busy because	13:28:37
12	of his failure -- past CEO, and I had a new CEO,	13:28:39
13	and I decided to go back and be CEO again, see if	13:28:42
14	I could save the company.	13:28:46
15	I really didn't know because	13:28:51
16	(indiscernible.)	13:28:51
17	THE REPORTER: "I really didn't know	13:28:51
18	because"?	13:28:51
19	THE WITNESS: Oh, I didn't know the	13:28:53
20	company was failing until all of a sudden I got a	13:28:53
21	call.	13:28:56
22	BY MR. REMUS:	13:28:56
23	Q And just to be clear, you moved on to	13:28:57
24	paragraph 8?	13:28:59
25	A Oh, yeah, sorry.	13:28:59

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1	Q No, that's fine. I just want to make sure	13:29:00
2	the record's clear.	13:29:03
3	A I was just reading.	13:29:04
4	What he's trying to say in 7 is that we	13:29:06
5	developed it together. That's what the last	13:29:08
6	paragraph says.	13:29:11
7	I don't remember that in any way, shape,	13:29:12
8	or form. I -- the only thing I remember is going	13:29:14
9	to Jeff and saying, Hey, look, and explaining to	13:29:15
10	him why this will sell better, why it should be	13:29:19
11	easier to make, why we could probably get a better	13:29:22
12	material, and why it differentiates us from	13:29:27
13	everybody else.	13:29:30
14	Because Jeff had competition in Canada	13:29:31
15	from Bain Magique, Bath Magic. It's a Canadian	13:29:33
16	company, Quebec, They speak French, Bain Magique,	13:29:36
17	Bath Magic.	13:29:36
18	And I said, this will really differentiate	13:29:37
19	it, because they only have the old way, okay?	13:29:40
20	So...	13:29:43
21	And I'm very uncomfortable doing this.	13:29:46
22	I'm going to say why, because I'm not a	13:29:50
23	confrontational guy, and, obviously, I'm	13:29:53
24	calling -- I'm calling Jeff a liar here, and I	13:29:56
25	don't want to do that. He's always been my	13:30:01

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1	friend, we have gone fishing together, but,	13:30:04
2	dammit, I'm going to tell you the truth. This is	13:30:08
3	the truth the way I remember it:	13:30:08
4	I was alone in that room working on stuff	13:30:09
5	and making drawings and -- and many, many other	13:30:12
6	projects, period.	13:30:16
7	Yeah, did I occasionally talk to people?	13:30:19
8	But this makes it sound like we both had lab	13:30:21
9	coats, sitting side by side. Nothing could be	13:30:27
10	farther than that.	13:30:30
11	We would go, we would have lunch, we would	13:30:31
12	shoot about everything in general, but a real	13:30:34
13	focus on what sells. What do our customers want	13:30:37
14	that would sell?	13:30:40
15	He is in the business of getting	13:30:40
16	distributors. What would help Jeff more than	13:30:42
17	anything else is to have a product that nobody	13:30:45
18	else has that he has the rights to. That would	13:30:47
19	blow up his business.	13:30:50
20	And I remember telling him, I don't have	13:30:51
21	the rights to Canada. I could not afford it. I	13:30:56
22	was in tough shape at the time. I would have	13:31:00
23	loved an international pattern. So if he wants to	13:31:02
24	copy it in Canada or Germany or Ireland, it's up	13:31:06
25	to him.	13:31:11

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1	And, by the way, I actually went to visit	13:31:12
2	some customers. There were some people in Ireland	13:31:14
3	doing the same thing, and they wanted to show me	13:31:16
4	how they make theirs, and I wanted to show them	13:31:19
5	what I was doing, and I'm talking about	13:31:22
6	thermoforming here, not -- not routing.	13:31:24
7	But we commonly shared things, and that	13:31:27
8	was put together by the Lucite Corporation, as we	13:31:29
9	were both a customer. Every year Lucite would	13:31:32
10	bring every bathtub manufacturer in the world, and	13:31:36
11	they would pay for us to go to some tropical	13:31:40
12	location and party for three days.	13:31:44
13	And I would be able to talk to Mr. Jacuzzi	13:31:46
14	and all the other big players, Herb Kohler, who	13:31:51
15	owns Kohler, and we would sit, and we all would	13:31:54
16	chat, because that's what you do when you go to	13:31:56
17	these meetings. You talk work. You talk about	13:31:59
18	your inventions and all of that, you know.	13:32:02
19	I remember, and sometimes you'd talk -- I	13:32:03
20	remember yelling at Herb Kohler. I said, I was	13:32:06
21	walking down the hall at your company, and I saw	13:32:09
22	you yelling at the Coke machine guy. Guy's	13:32:12
23	repairing a Coke machine. What the hell's your	13:32:12
24	job?	13:32:12
25	You have fun. You mingle with the people,	13:32:16

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1	and it's a looser environment. So you do talk	13:32:19
2	work on a looser environment, but I don't tell	13:32:23
3	Herb or anybody else how to -- you know, I got to	13:32:26
4	keep what makes me different, different. You	13:32:29
5	know, I got to protect myself.	13:32:32
6	And that's why you go to a patent	13:32:35
7	attorney. Their job is to help you protect your	13:32:37
8	company. Every one of my customers is protected	13:32:39
9	by an agreement that -- any agreement that we have	13:32:42
10	in writing.	13:32:45
11	That's why I've got lawyers on staff.	13:32:46
12	That's why I hire pros; you know, and I've sold	13:32:49
13	millions and millions of dollars worth of product.	13:32:53
14	Right now the company, I sold, I think	13:32:56
15	they're near 300 million -- I am not supposed to	13:32:58
16	talk about that, but it grew, and the whole	13:33:00
17	business is going.	13:33:03
18	As a matter of fact, American Standard got	13:33:04
19	into the business recently. Their specialty is	13:33:08
20	walk-in tubs, and I lost a lot of my guys to them,	13:33:11
21	because they wanted to go in with the name.	13:33:14
22	We had talked about Mark Smith earlier,	13:33:17
23	Mark Smith sold his company to Jacuzzi, and now	13:33:20
24	it's called Jacuzzi Bath.	13:33:24
25	Mark and I have a long history of working	13:33:28

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1 on things together. Matter of fact, I go over 13:33:31
2 there and look at what he's doing, and say I like 13:33:34
3 it or I don't. Or I don't think it will sell, 13:33:36
4 Mark, you know. 13:33:40

5 You know, I always look at things that 13:33:40
6 bring in money. Once I have an idea on what 13:33:43
7 brings in money, then you start working on the 13:33:46
8 process to develop that. Why -- why spend time if 13:33:48
9 it's not going to sell, you know, and that is how 13:33:51
10 I provide a differentiated product to all my 13:33:55
11 customers. It's how I sell my product. Otherwise 13:33:59
12 they buy from somebody else who is cheaper than 13:34:02
13 me. 13:34:07

14 So I take this real serious when I'm 13:34:07
15 developing something. I want to provide for my 13:34:10
16 guys, and Jeff was one of them and still is in a 13:34:12
17 way. I -- I don't know if he's still buying from 13:34:17
18 Luxury or -- I mean, I never asked him. 13:34:22

19 But him and I just met Mark Smith a few 13:34:24
20 weeks ago, and he brought a new guy with him that 13:34:30
21 I guess bought his installation company, and it 13:34:33
22 was a nice meeting, and I think, like I said, I 13:34:36
23 believe Mark will buy from him, Mark Smith will 13:34:39
24 buy from him, and I think that he'll buy showers 13:34:43
25 from Mark. 13:34:46

Transcript of Mark Domanico
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1 Mark has been a little tardy delivering
2 some of the prototypes, because the truth is, he
3 didn't -- he just started the business, he didn't
4 really plan on going full scale until January 1st,
5 coming up, but Mark told him, when we were at the
6 meeting, I could start slow, because I have -- I'm
7 still building -- we bought three buildings and
8 hired, I don't know, 30, 40 people, and he's
9 making parts for all the other guys.

10 He makes parts for Jacuzzi, he makes parts
11 for BCI, he makes parts for himself, and they all
12 go to the same home show and compete and sell the
13 same part.

14 Q All right. Let's -- we are almost near
15 the end of this declaration. Let's move on to
16 paragraph 9, which is on the last page.

17 A By the way, my largest customer was Home
18 Depot, and I wouldn't sell this to Home Depot,
19 because I didn't want to go against my dealers. I
20 made Home Depot take just the standard stuff you
21 can get anywhere. I don't trust Depot as far as I
22 could throw them, for a reason.

23 Q All right. So in Exhibit 7, let's look at
24 paragraph 9, which is on page 4, the very last
25 page. If you could read that paragraph to

13:34:47
13:34:50
13:34:53
13:34:57
13:35:01
13:35:04
13:35:08
13:35:10
13:35:13
13:35:14
13:35:18
13:35:21
13:35:24
13:35:27
13:35:29
13:35:33
13:35:35
13:35:39
13:35:42
13:35:42
13:35:45
13:35:48
13:35:51
13:35:55
13:35:57

Transcript of Mark Domanico
Conducted on November 29, 2023

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1	yourself and let me know if you agree with that	13:36:06
2	paragraph.	13:36:07
3	A This is a hope and prayer. It's not what	13:36:27
4	happened. It's not. I invented it. I never even	13:36:31
5	thought of Mr. Whitley or anybody else I talked	13:36:37
6	to. I'm the one who put in the hours, I'm the one	13:36:39
7	that did all the prototypes, I'm the one that	13:36:42
8	invented it.	13:36:47
9	Q Okay. Let's move on to paragraph 10.	13:36:47
10	A I did not discuss my intention for a	13:36:48
11	patent with Mr. Whitley. Yeah, I didn't. I was	13:36:50
12	told at first, talk to nobody, and besides that, I	13:36:53
13	didn't even show the pieces until my lawyer said,	13:36:55
14	go ahead.	13:36:59
15	Q Okay. Let's move on to paragraph 10, if	13:36:59
16	you could read to yourself and let me know if	13:36:59
17	you --	13:36:59
18	A This type of collaboration was indicative	13:36:59
19	of the normal working relationship --	13:37:07
20	THE REPORTER: Sir, if you're reading, I	13:37:07
21	need to...	13:37:26
22	THE WITNESS: Boy, that's, yes, I did talk	13:37:26
23	to him about some things. I don't -- never --	13:37:27
24	never considered it codeveloped.	13:37:31
25	I would ask people, you know, would this	13:37:38

Transcript of Mark Domanico
Conducted on November 29, 2023

171

1	be something you'd sell or what could I do to	13:37:40
2	improve a process. Mostly processes. We did not	13:37:43
3	change products that often.	13:37:46
4	Example: We had a shower caddy. Our	13:37:48
5	first shower caddy had two shelves, and that's all	13:37:54
6	we sold. And then I would go to people's houses	13:37:58
7	and they'd have, you know, five daughters, so I	13:38:01
8	would put a shower caddy on each side, but that's	13:38:05
9	still only four shelves.	13:38:09
10	So I said, I'd better invent a three-shelf	13:38:10
11	shower caddy, so I could put -- and then I	13:38:14
12	invented a four-shelf shower caddy, because people	13:38:17
13	wanted them.	13:38:20
14	And then some lady said, I'm not going to	13:38:21
15	buy from you, and I said, Why? And she said,	13:38:23
16	Well, I shave my legs, and I need a stoop. I want	13:38:25
17	a built-in stand, and Kohler has one.	13:38:30
18	So I went and looked at Kohler and I go,	13:38:33
19	Yeah, that's a good idea. And I called the	13:38:35
20	attorney. He said no, it's not patented. It's in	13:38:39
21	there.	13:38:46
22	So I just copied from the best, you know,	13:38:46
23	and everybody in the industry then put out -- and	13:38:48
24	then we got rid of that idea, because a company	13:38:50
25	started to make a little piece of a bar of metal	13:38:52

Transcript of Mark Domanico
Conducted on November 29, 2023

172

1	that you'd stick in the corner between the	13:38:56
2	two right angles, and the women liked that better	13:39:00
3	to shave their legs. You do what a customer	13:39:03
4	wants. And we figured out a way to do it.	13:39:04
5	But I went -- I have to ask a bunch of	13:39:08
6	people first: Is this going to sell or has	13:39:10
7	somebody got me spinning my wheels? I don't want	13:39:13
8	to build molds, I don't want to store a mold, I	13:39:15
9	don't want to change all my price lists, but if	13:39:18
10	you think it's something we need, then I'll	13:39:18
11	talk -- you know, if enough people say do it,	13:39:22
12	we'll do it.	13:39:25
13	And we did that, and how I did that was at	13:39:25
14	our annual meetings, when we were all in the same	13:39:28
15	hotel, I would say, Hey, anybody got some ideas,	13:39:30
16	and we passed the mic. Mostly we talked about how	13:39:34
17	to sell to the customer, what do customers want,	13:39:38
18	and how do they want to be sold.	13:39:42
19	At this time customers were getting	13:39:45
20	smarter. There was Internet. People were able to	13:39:46
21	go online and really thoroughly vet a product	13:39:49
22	before they bought it. Before then people would	13:39:53
23	come in, and you believe whatever the salesman	13:39:57
24	would sell you.	13:39:59
25	Nowadays, you walk in, the customer	13:40:00

Transcript of Mark Domanico
Conducted on November 29, 2023

173

1 probably knows more than you do, because they'll 13:40:03
2 research you and all your customers. They went to 13:40:07
3 everybody's websites. They have seen everybody 13:40:09
4 else. So I have to have the right product that a 13:40:12
5 customer, not my dealer, so if a dealer says, 13:40:15
6 Mark, that's going to sell, I'd have to ask a few 13:40:18
7 people. 13:40:21

8 And to be really honest with you, I did 13:40:22
9 something that I don't think any other CEO does 13:40:25
10 other than the guy who runs Sony. I routinely 13:40:28
11 went with salesmen, and I told them "I'm a 13:40:31
12 trainee." I would listen to the salesman's pitch, 13:40:35
13 look at the customer's reaction, and say: Am I -- 13:40:38
14 am I taking care of this customer? Am I giving 13:40:41
15 him what he needs. And I loved doing that. I 13:40:44
16 loved doing that. Because, thank God, almost 13:40:47
17 every time I went, the guy made a sale, and I 13:40:50
18 thought I was a good luck charm. 13:40:52

19 But it really wasn't about the sale. To 13:40:55
20 me it was: Am I doing my job? And sometimes I 13:40:57
21 wasn't, sometimes I was. 13:41:02

22 I realized after a while, and talking 13:41:03
23 about -- I was very deficient on handicapped 13:41:07
24 showers. This old guy in the ghetto in Sacramento 13:41:12
25 who was washed by his nurse, a female, and he 13:41:17

Transcript of Mark Domanico
Conducted on November 29, 2023

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1	hated being taken care of, said to me, Can you	13:41:22
2	figure out a way -- crying -- that I could give	13:41:27
3	myself a bath. I'm a Christian man, and I don't	13:41:31
4	want a woman washing me, and they won't give me	13:41:34
5	another nurse.	13:41:39
6	I said, We need to come up with a whole	13:41:40
7	bunch of handicapped stuff. We are missing the	13:41:42
8	boat. You know how old America's getting? How	13:41:44
9	could we not be in this business?	13:41:48
10	So we all went -- at first they started	13:41:49
11	buying things. There was a company, Hollett	13:41:52
12	Hawei, that made excellent polymer slip-resistant	13:41:52
13	chairs, really way too expensive, and I sold those	13:41:58
14	at first. And eventually we started developing	13:42:01
15	our own line, and I wasn't happy with the acrylic	13:42:05
16	ones, so then I started to -- there's a thing	13:42:07
17	called the coefficient of friction, slip	13:42:10
18	resistance. You could sit on something, and	13:42:10
19	you're fairly good, like this cloth is very co of	13:42:15
20	friction -- oh, sorry, sorry.	13:42:15
21	But if you got soap on something, you	13:42:18
22	could slide right off. Now, if you're an old guy	13:42:21
23	and your feet were -- that's dangerous, so we had	13:42:24
24	to come up with slip resistance, so I called a guy	13:42:27
25	name Dr. Berning Robert. He wrote the standard	13:42:31

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Conducted on November 29, 2023

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1	slip-resistant testing for the country.	13:42:35
2	As a matter of fact, the test is called	13:42:38
3	the Berning Robert Slip-Resistant Test, and it's	13:42:38
4	part of getting IAPMO approval.	13:42:43
5	So I said how can I guarantee -- I'm not	13:42:45
6	looking at the floor. I'm looking at the guy's	13:42:48
7	butt. Help me out here.	13:42:51
8	Well, how big is the guy? How heavy? How	13:42:51
9	much -- so I started to say, Well, wow -- I'll let	13:42:53
10	it go and I started looking at --	13:42:56
11	THE REPORTER: I'm sorry. I can't hear.	13:43:00
12	THE WITNESS: Just let it go. What do you	13:43:23
13	call it.	13:43:23
14	MR. REMUS: I think it's in your pocket.	13:43:23
15	THE WITNESS: Hey, I'm in court right now.	13:43:24
16	I'll call you back.	13:43:25
17	Mark Smith's secretary.	13:43:27
18	BY MR. REMUS:	13:43:29
19	Q Were you done with your answer?	13:43:29
20	A Yes, I think I was pretty much. I went	13:43:30
21	way too fast.	13:43:33
22	Q Let's look at paragraph 11 of Exhibit 7.	13:43:35
23	A Wait. May I ask you this?	13:43:37
24	Do you guys think I answered it correctly?	13:43:39
25	Q If you gave an honest answer, I'm happy	13:43:42

Transcript of Mark Domanico
Conducted on November 29, 2023

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1	with your answer.	13:43:46
2	A Okay.	13:43:47
3	Q So paragraph 11, take and read that to	13:43:47
4	yourself, and let me know if you agree with that	13:43:50
5	paragraph.	13:43:53
6	A I recently...	13:43:55
7	Okay. I went through everything I could	13:43:56
8	to find old emails. What I had done is as a threw	13:43:59
9	my old computers out, I saved the hard drives, so	13:44:06
10	that some day, if I ever had to go back, I'd be	13:44:10
11	able to find something.	13:44:14
12	And the reason I did that is my hobby is	13:44:19
13	photography, and I really have a large selection	13:44:22
14	of photographs. I've been all over the world	13:44:25
15	many, many times.	13:44:28
16	So what I did was I told them I could go	13:44:29
17	through my hard drives. I had like 15 or 16 of	13:44:32
18	them. What I found was some of them did not work.	13:44:36
19	What I also found some of them had a very old	13:44:39
20	style interface. So I had to buy some cables that	13:44:43
21	would connect the old four-prong plug into the	13:44:48
22	newer -- but I did, and I had to buy cables that	13:44:53
23	changed the shape of the power supply, not a big	13:44:56
24	deal, you could order them online.	13:45:00
25	So I diligently went through everything I	13:45:02

Transcript of Mark Domanico
Conducted on November 29, 2023

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1	had, but I didn't keep work stuff, I just kept	13:45:04
2	photo stuff. So if it wasn't a picture of my kids	13:45:07
3	or the Statue of Liberty or someplace in Rome, I	13:45:11
4	just didn't have it.	13:45:21
5	I told him I'm really sorry but I tried,	13:45:21
6	and by the way, I probably had eight, ten hours	13:45:23
7	doing that of work trying to show him and find out	13:45:25
8	what was real, because if I have it in black and	13:45:28
9	white, I'd have shared it with him. I always told	13:45:30
10	Jeff I had it in black and white. I didn't.	13:45:36
11	The only thing I thought might happen is	13:45:38
12	maybe in a box somewhere in the attic at BCI,	13:45:40
13	there might be something, and I didn't take any of	13:45:41
14	the paperwork. They didn't belong to me. I was a	13:45:43
15	20 percent owner. I don't have rights to take all	13:45:46
16	their files. You know, I had room.	13:45:48
17	So there was an old accounting program	13:45:52
18	that I had a backup file for. I'm not sure that	13:46:01
19	worked, but I know that you have to buy that	13:46:07
20	program every year and they upgrade it every year,	13:46:11
21	so I don't even know if I can go back in time, and	13:46:16
22	I don't know how to use it. All the girls in the	13:46:19
23	office used it. I'd just ask them, could you	13:46:21
24	print me out a P&L, and yes, sir, and there was a	13:46:23
25	P&L. I'm not even sure that's on there, but I	13:46:26

Transcript of Mark Domanico
Conducted on November 29, 2023

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1	think it might be. I'm being as straight up as I	13:46:31
2	can. I looked. I wouldn't have put in all those	13:46:34
3	hours, because I didn't want to be wrong.	13:46:37
4	MR. REMUS: Thank you, Mr. Domanico.	13:46:39
5	BCI does not have any further questions	13:46:41
6	for you at this time based on the scope of the	13:46:42
7	discovery that the Court has ordered.	13:46:45
8	MR. HALVERSON: Very briefly, promise, two	13:46:48
9	minutes.	13:46:50
10	THE WITNESS: Okay.	13:46:51
11	FURTHER EXAMINATION	13:46:53
12	BY MR. HALVERSON:	13:46:53
13	Q Have you ever looked into legally what the	13:46:55
14	test is to be called an inventor?	13:46:59
15	A No, I just thought it was a word. I call	13:47:00
16	myself a tinkerer usually, but I thought this was	13:47:04
17	a more formal proceeding, so I went with inventor.	13:47:07
18	MR. HALVERSON: I've got nothing else.	13:47:11
19	Thank you.	13:47:13
20	THE VIDEOGRAPHER: Thank you. We can go	13:47:13
21	off the record?	13:47:14
22	MR. HALVERSON: No confidentiality from --	13:47:14
23	THE REPORTER: Oh, no -- yes.	13:47:23
24	MR. HALVERSON: As far as I know.	13:47:24
25	MR. REMUS: I'm not aware of any. I don't	13:47:24

Transcript of Mark Domanico
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1	think we have a protective order in this case.	13:47:26
2	THE VIDEOGRAPHER: This marks the end of	13:47:28
3	the deposition of Mark Domanico.	13:47:29
4	We are going off the record at 1:47 p.m.	13:47:33
5	(Deposition concluded at 1:47 p.m.)	
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Transcript of Mark Domanico
Conducted on November 29, 2023

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ACKNOWLEDGEMENT OF DEPONENT

I, MARK DOMANICO, do hereby acknowledge
that I have read and examined the foregoing
testimony, and the same is a true, correct, and
complete transcription of the testimony given by
me and any corrections appear on the attached
errata sheet signed by me.

(DATE) (SIGNATURE)

MARK DOMANICO ERRATA SHEET

MARK DOMANICO Job ID: 516588

Case Caption: BCI Acrylic v Milestone Bath

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my Deposition taken in the above-captioned matter or the same has been read to me and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath. Signed on the _____ day of _____, 20_____.

MARK DOMANICO

Transcript of Mark Domanico
Conducted on November 29, 2023

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DEPOSITION ERRATA SHEET

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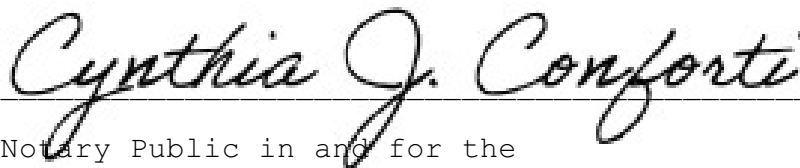
Reason for change: _____

SIGNATURE: _____ DATE: _____

1 CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC

2 I, Cynthia J. Conforti, Certified
3 Shorthand Reporter No. 084-003064, CSR, CRR, and a
4 Notary Public in and for the County of Cook, State
5 of Illinois, the officer before whom the
6 foregoing deposition was taken, do hereby certify
7 that the foregoing transcript is a true and
8 correct record of the testimony given; that said
9 testimony was taken by me stenographically and
10 thereafter reduced to typewriting under my
11 direction; and that I am neither counsel for,
12 related to, nor employed by any of the parties to
13 this case and have no interest, financial or
14 otherwise, in its outcome.

15 IN WITNESS WHEREOF, I have hereunto set my
16 hand and affixed my notarial seal this 30th day of
17 November, 2023,
18
19

20 
21 _____

22 Notary Public in and for the
23 State of Illinois
24
25

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Conducted on November 29, 2023

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